

# CITY COUNCIL PROCEEDINGS

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## MINUTES OF THE MEETING OF THE CITY COUNCIL

Wichita, Kansas, February 7, 2006  
Tuesday, 9:10 A.M.

The City Council met in regular session with Mayor Mayans in the Chair. Council Members Brewer, Fearey, Gray, Martz, Schlapp, Skelton; present.

George Kolb, City Manager; Gary Rebenstorf, Director of Law; Karen Sublett, CMC, City Clerk; present.

Reverend Dr. Michael Chittum, from the Plymouth Congregation, gave the invocation.

The pledge of allegiance was participated in by the Council Members, staff, and guests.

The Minutes of the January 24, 2006 meeting were approved 7 to 0.

## AWARDS AND PROCLAMATIONS

Proclamations

### Proclamations:

“Girl Scout Cookie Month”

Mayor Mayans read aloud the Proclamation.

Jan Randall

Ms. Randall, President of the Board of Directors of the Girl Scouts of the Golden Plains Council stated that on behalf of the Girl Scouts of the Golden Plains, thanked the City Council for their support of girl scouting and the 2006 Girl Scout Cookie Sale. Stated that by proclaiming February as Girl Scout Cookie Month, the City is recognizing the efforts of more than 5,000 girls in Sedgwick, Butler, Cowley, Harvey and Sumner Counties. Stated that in mid January, this group of girls set out to make the 2006 cookie sale a success by setting goals, crafting action plans and learning how to be young entrepreneurs. Stated that the generosity of the community-at-large is helping them reach their goals and thanked them for that. Stated that the partnership between the girl scouts and the adults and businesses in the community has played a key role in teaching girls the value of leadership, teamwork and civic participation. Together they encourage the girls to reach their full potential and give them the tools that they need to succeed in life.

## PUBLIC AGENDA

Thomas Strickland

### Possibility of locating a fire station in the South City Area-Thomas Strickland.

Mr. Strickland stated that he is a member of the Watchful Eye of District III and would like to address the Council regarding the possibility of locating a fire station in their area. Stated that this area is somewhat landlocked at many times by two railroads. Stated that the north access street is Pawnee Street, the south major artery into the area is MacArthur Road and Hydraulic. Stated on the west they have Union Pacific Railroad and the river and on the east they have the Burlington Northern Santa Fe Railroad that limits access in and out of that area in an emergency situation. Stat that the nearest fire station to their area at this time is located on Broadway between MacArthur and 47<sup>th</sup> Street and the other station is located between Mt. Vernon and Hillside on George Washington Boulevard. Stated that they have a response time of 4 to 5 minutes for heart attack victims. Stated that he feels that a fire station in this area would be well warranted and cut the response time almost to nothing and that he believes that it would be welcomed with open arms.

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- Mayor Mayans Mayor Mayans stated that he feels that fire protection is very important and appreciates the input. Stated that he is sure that some money will be put towards that effort since one of the indicators that has been proposed by the City has to do with public safety. Stated that he thinks that would be properly funded in the public safety section of the indicators in the Transforming Wichita project.
- Council Member Skelton Council Member Skelton thanked Mr. Strickland for coming down and sharing his comments with the Council today stated that the City will be soon developing a city wide plan to address the fire department needs of our community and when they start discussions, he will contact Mr. Strickland and keep him updated on what has been discussed.

## CONSENT AGENDA

- Mayor Mayans Mayor Mayans requested to pull items 14 and 15 for discussion.
- Motion-- Mayans moved that the Consent Agenda, except items 14 and 15, be approved in accordance with the recommended action shown thereon. Motion carried 7 to 0.  
--carried

## **BOARD OF BIDS**

### **REPORT OF THE BOARD OF BIDS AND CONTRACTS DATED FEBRUARY 6, 2006.**

Bids were opened January 27, and February 3, 2006, pursuant to advertisements published on:

**PUBLIC WORKS DEPARTMENT/ENGINEERING DIVISION: Sewers, Paving and Water Mains as per specifications.**

29th Street North from Ridge Road to Tyler improving 29th Street North from Ridge to 306 ft. east of Tyler to provide for widening to 4 and 5 lanes with center left turn lane, medians, drainage and landscaping N/A - 29th Street North from Ridge Road to Tyler. (87N-0306-01/472-83903/706914/204380) Two way traffic to be maintained thru out project. (District V)

LaFarge North America Inc.\* - \$3,042,333.83  
\*Upon KDOT approval

15th Street Pump Station - west of Ferrell Street at 15th Street. (468-83394/620335 /662458) Traffic to be maintained during construction using flagpersons and barricades. (District VI)

Wildcat Construction - \$583,449.00

Lateral 69, Main 9, Sanitary Sewer #23 to serve Killarney Plaza East Addition - north of 29th Street North, west of Rock. (468-84018/744138/480826) Does not affect existing traffic. (District I)

Dondlinger & Sons - \$35,734.00

Williamsgate/Camden Chase (Phase 2) from the east line of Peckham to the north line of 21st Street North to serve Hawthorne 2nd & 3rd Additions - north of 21st Street North, east of 127th Street East. (472-83644a/765774/490885) Does not affect existing traffic. (District II)

Bob Bergkamp Construction - \$59,370.00

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Castle Rock and 24th Street North from the north line of Lot 30, Block A to the east line of Lot 18, Block A; Spring Hollow Street from the west line of Castle Rock \$50,959.00 north to the south line of Mainsgate; Mainsgate and Mainsgate Circle from 24th Street North to and including the cul-de-sac; 24th Court north from the south line of 24th Street North south to and including the cul-de-sac; Sidewalk along one side of Castle Rock, Mainsgate, 24th Street North, and Spring Hollow Street to serve Krug North 2nd Addition (north of 21st Street North, west of 143rd Street East) (472-

Kansas Paving Company - \$383,067.20

Mainsgate/Loch Lochmond from the north line of Mainsgate Circle to the north line of Lot 42, Block 4; and Williamsgate from the north line of Mainsgate to the north line of Lot 3, Block 6 to serve Hawthorne 2nd & 3rd Additions - north of 21st, east of 127th St. East (472-84082/765960/490074) Does not effect existing traffic. (District II)

Cornejo & Sons Construction - \$198,792.30

Motion--

Mayans moved that the contracts be awarded as outlined above, subject to check, same being the lowest and best bid within the Engineer's construction estimate, and the and the necessary signatures be authorized. Motion carried 7 to 0.

--carried

WATER & SEWER DEPARTMENT/WATER DISTRIBUTION DIVISION: 58M GVW Dump Trucks, 20 M GVW Step Vans.

Kansas Truck Center North \$58,447.00 (Group 1/Base Bid/One additional Dump Truck)  
\$ 495.00 (Group 1/Option 1)  
\$ 150.00 (Group 1/Option 2)  
\$ 273.00 (Group 1/Option 3)  
\$ 150.00 (Group 1/Option 4)  
\$ 509.00 (Group 1/Option 5)  
\$18,612.00 (Group 1/Option 6)  
\$78,636.00 (Group 1/Total Net Bid)

Kansas Truck Center - \$61,169.00 (Group 2/Base Bid/One additional Step Van)  
\$ 1,037.00 (Group 2/Option 1)  
\$ 996.00 (Group 2/Option 2)  
\$ 1,036.00 (Group 2/Option 4)  
\$ 687.00 (Group 2/Option 5)  
\$ 287.00 (Group 2/Option 6)  
\$65,212.00 (Group 2/Total Net Bid)

WATER & SEWER DEPARTMENT/WATER DISTRIBUTION DIVISION: Rubber Tired Tractor Loader/Backhoe.

Wichita Tractor Co. - \$101,918.00 (Group 1/Base Bid/Two additional Loaders/Backhoe)  
\$ 8,940.00 (Group 1/Option 1)  
\$ 3,756.00 (Group 1/Option 2)  
\$114,614.00 (Group 1/Total Net Bid)

WATER & SEWER DEPARTMENT/PRODUCTION & PUMPING DIVISION: ASR Phase 1 - Construction.

Snodgrass & Sons Construction Co. Inc. - \$9,173,480.00 (Group 1, Total Net Bid)

VARIOUS DEPARTMENTS/DIVISIONS: Furnish & Install Auto Glass

Autoglass Outlet - 58.5% (Group 1, Total Discount)

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Motion--  
--carried

Mayans moved that the contract(s) be awarded as outlined above, same being the lowest and best bid, and the necessary signatures be authorized. Motion carried 7 to 0.

## CMBS

### APPLICATIONS FOR LICENSES TO RETAIL CEREAL MALT BEVERAGES:

<u>Renewal</u>	<u>2006</u>	<u>(Consumption on Premises)</u>
Mark T. Ryan Arluro Chavez	Two Brothers BBQ* Mireles Restaurant*	3750 N. Woodlawn, Suite 102 1959 North Waco
<u>New Establishment</u>	<u>2006</u>	<u>(Consumption on Premises)</u>
Huong V. Nguyen	Lucky Market, Inc.	7100 East Harry
<u>New Tavern</u>	<u>2006</u>	<u>(Consumption on Premises)</u>
William N. Embree	Storm's Entertainment Inc./ Twin Lakes Play House	2038 North Amidon
<u>Special Event</u>	<u>May 7, 2006</u>	
Miguel Banuelos	Wichita 5 DeMaya Festival	151 North Waco

\*General/Restaurant - 50% or more of gross receipts derived from sale of food.

Motion--  
--carried

Mayans moved that the licenses be approved subject to Staff review and approval. Motion carried 7 to 0.

## PRELIM ESTS.

### PRELIMINARY ESTIMATES:

- a) Water Distribution System to serve Auburn Hills 16th Addition -south of Maple, east of 151st Street West. (448-90121/735284/470955) Does not affect existing traffic. (District V) - \$175,000
- b) Water Distribution System to serve Reed's Cove 3rd Addition - south of 21st Street North, east of 127th Street East. (448-89957/735290/470961) Does not affect existing traffic. (District II) - \$51,600
- c) Water Distribution System to serve Equestrian Estates Addition - south of Harry, east of 127th Street East. (448-89614/735287/470958) Does not affect existing traffic. (District II) - \$145,000
- d) Main 18 Four Mile Creek Sewer to serve McEvoy & Casa Bella Additions - south of Harry Street, west of 127th Street East. (468-84026/744131/480819) Does not affect existing traffic. (District II) - \$537,000
- e) 21st Street North from Oliver to Woodlawn. (87N-0190-01/472-84235/706923/205389) Traffic to be carried thru construction. (District I) - \$2,430,000
- f) Wichita Waterwalk Public Improvements, Phase 2 - north of Kellogg, east of Arkansas River) (472-84133/792424/622098/435352/675126) Traffic to be maintained during construction using flagpersons and barricades. (District I) - \$689,004
- g) Kite from the east line of the plat, west to the west line of the plat; Marblefalls from the south line of Kite, south to the south line of Lot 38, Block C; Kite Court (Lots 11 through 17, Block

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D) from the north line of Kite north to and including the cul-de-sac; Kite Court (Lots 31 through 41, Block A) from the south line of Kite south to and including the cul-de-sac; Kite Court (Lots 42 through 53, Block A) from the south line of Kite south to and including the cul-de-sac; Sidewalk on Kite and Marblefalls to serve Falcon Falls 2nd Addition - north of 45th Street North, west of Hillside. (472-84264/765973/490088) Does not affect existing traffic. (District I) - \$543,000

- h) Water Distribution System to serve Eberly Farm Office Park Addition - south of 21st Street North, east of 135th Street West. (448-90140/735294/470965) Does not affect existing traffic. (District V) - \$38,000
- i) Cost of West Street, between Maple and Central. (Districts IV & VI) (472-83997/706890/204-356)-Total Estimated Cost \$2,230,000

Motion--carried

Mayans moved that the file be received. Motion carried 7 to 0.

## PETITION

### **PETITION FOR PUBLIC IMPROVEMENT: PAVE PART OF AN ALLEY BETWEEN HILLSIDE AND LORRAINE, UTH OF CENTRAL. (DISTRICT I)**

Agenda Report No. 06-0095

The Petition has been signed by one owner representing 100% of the improvement district.

The project, which is a zone change requirement, will pave an alley adjacent to a medical office.

The Petition totals \$20,000. The funding source is special assessments.

State Statutes provide that a Petition is valid if signed by a majority of resident property owners or owners of a majority of property in the improvement district.

Motion--  
--carried

Mayans moved that the Petition be approved; the Resolution adopted and the necessary signatures authorized. Motion carried 7 to 0.

### RESOLUTION NO. 06-046

Resolution of findings of advisability and Resolution authorizing constructing pavement on the north-south alley lying between Hillside Ave. and Lorraine Ave. from the north line of Lot 1, Bruce Meeker 2<sup>nd</sup> Addition, south to the south line of Lot 62, on Lorraine Ave., in Maple Grove Addition (west of Hillside, south of Central) 472-84368, in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Martz, Schlapp, Skelton, and Mayans.

## BOARDS/COMM.

### **MINUTES OF ADVISORY BOARDS/COMMISSIONS:**

District VI Advisory Board, December 5, 2005

Wichita Airport Advisory Board, December 5, 2005

Wichita Employees' Retirement Board/ Police & Fire Department Retirement Board Special Joint Investment Committee, September 13, 2005

Wichita Public Library Regular Library Board of Directors, December 20, 2005

Board of Electrical Appeals, November 8, 2005

Wichita Public Library Monthly Report, November, 2005

Board of Code Standards and Appeals, November 7, 2005

Wichita Employees' Retirement Board, December 21, 2005

Wichita Employees' Retirement Board/Police & Fire Department Retirement Board Special Joint Investment Committee, September 15, 2005

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Wichita Employees' Retirement Board/Police & Fire Department Retirement Board Joint Investment Committee, November 3, 2005  
Police & Fire Retirement System Regular Board Meeting, November 16, 2005  
Housing Advisory Board Meeting, November 16, 2005  
Wichita Public Library Monthly Report, December 2005  
Wichita Employees' Retirement Board/Police & Fire Department Retirement Board Joint Investment Committee, December 1, 2005  
District V Advisory Board, December 5, 2005  
District II Advisory Board, December 5, 2005  
Board of Code Standards and Appeals, December 5, 2005  
Board of Electrical Appeals, December 13, 2005  
Wichita Public Library Regular Library Board of Directors, January 17, 2006

Motion--carried      Mayans moved that the file be received. Motion carried 7 to 0.

## **STREET CLOSURES      CONSIDERATION OF STREET CLOSURES/USES.**

Agenda Report No. 06-0140

Dondlinger & Sons Construction Co., Inc. is the contractor for the Central Rail Corridor Project and temporary arterial street closures will be required during different phases of the construction. Because of the construction of bridges adjacent to arterial traffic and because so much of the work can only be accomplished during short time windows when train movements can be scheduled, the contractor is requesting the approval of several short-term street closures as necessary for safety and efficiency. Later this summer after the bridge abutments are constructed, short-term street closures will again be needed to allow the placement of bridge beams. The limited right-of-way near the 1st and 2nd Street bridges will require some traffic restrictions and street closures. Cranes will be needed to lift and place T-wall sections near all of the arterial crossings. All necessary street closures would be kept to a minimum and would only be allowed with the agreement of the Project Consultant and the City's Project Engineer.

Temporary closures will also be required at the crossings of Central, Murdock and 13th Streets as the BNSF railroad removes some of the existing concrete crossing material to be eventually reinstalled in their crossings on 29th, east of Broadway. Because the removal of this material will require the patching of the street once the material is removed and because these closures would be dependent on revising multiple train schedules, we are not able to determine the exact dates and times when the short term closures will be made. Requesting the street closure approval through the normal Council Agenda process may cause delays in the ability of the contractor to construct the project.

Dondlinger & Sons Construction Co., Inc. is responsible for the placement of the required detour and construction signs and barricades and the notification of area businesses and residents. When the Contractor submits a request for a street closure and the Project Consultant and City's Project Engineer agree that a short-term closure is needed, the contractor will install message boards at the closure site to inform the traveling public of the upcoming closure. The City Council will be informed of these closures through the Council Newsletter and the information will be shown on the City's weekly Construction Projects List.

When short-term closures are required traffic will be detoured as follows:

Central traffic will be detoured using St. Francis, Murdock and Washington streets.  
Murdock traffic will be detoured using St. Francis, Central and Washington streets.  
Eastbound 13th St. traffic will be detoured using Emporia, 17th and Mosley streets.  
Westbound 13th St. traffic will be detoured using Mosley, 17th and St. Francis streets.  
2nd St. traffic will be detoured using Washington, Central and Topeka streets.  
1st St. traffic will be detoured using St. Francis, Douglas and Washington streets.

Motion--  
--carried      Mayans moved that the short-term street closures as necessary for the duration of this project be approved. Motion carried 7 to 0.

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## AGREEMENTS/CONTRACTS:

### APPRAISAL SERV.

#### APPRAISAL SERVICES FOR THE IMPROVEMENT OF WEST STREET FROM MAPLE TO CENTRAL. (DISTRICTS IV AND VI)

Agenda Report No. 06-0096

On October 18, 2005 the City Council approved the improvement of West Street between Maple and Central. The project will require the acquisition of all or part of 36 parcels. The tracts include residential, retail and commercial properties.

Proposals to provide appraisal services were solicited from seven firms qualified to perform both commercial and residential appraisals. Six proposals were received. Jack Randal Poteet & Associates was selected by the review committee based on qualifications, completion time and lowest cost. Based on their proposal, it is estimated that \$57,000 will be sufficient to complete the assignment.

Funding is available within the project budget for the cost of the appraisals. Project costs will be funded with general obligation bonds.

The Law Department has approved the contract as to form.

Motion--  
--carried

Mayans moved that the contract be approved and the necessary signatures authorized. Motion carried 7 to 0.

### SOUTHERN RIDGE

#### RESPREAD ASSESSMENTS-SOUTHERN RIDGE ADDITION, SOUTH OF PAWNEE, WEST OF MAIZE. (DISTRICT IV)

Agenda Report No. 06-0097

The landowner, Maize Road, L.L.C., has submitted an Agreement to respread special assessments within Southern Ridge Addition.

The land was originally included in a number of improvement districts for several public improvement projects. The purpose of the Agreement is to respread special assessments on a fractional basis for each lot, therefore, distributing the cost of the improvements more fairly. Without the Agreement, the assessments will be spread on a square foot basis.

There is no cost to the City.

The Agreement has been approved as to form by the Law Department.

Motion--  
--carried

Mayans moved that the Agreement be approved and the necessary signatures authorized. Motion carried 7 to 0.

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**EQUESTRIAN ESTS.    CONSTRUCTION ENGINEERING AND STAKING IN EQUESTRIAN ESTATES ADDITION, SOUTH OF HARRY, EAST OF 127TH STREET EAST. (DISTRICT II)-SUPPLEMENTAL.**

Agenda Report No. 06-0098

The City Council approved the water distribution system, sanitary sewer, drainage and paving improvements in Equestrian Estates Addition on October 15, 2005. On November 15, 2005 the City approved an Agreement with Poe & Associates of Kansas, Inc. to design the improvements. The Design Agreement with Poe requires Poe to provide construction engineering and staking services if requested by the City.

The proposed Supplemental Agreement between the City and Poe provides for construction engineering and staking the improvements. Due to the current workload created by previous projects, City crews are not available to perform the construction engineering and staking for this project.

Payment to Poe be on a lump sum basis of \$76,800 and will be paid by special assessments.

The Supplemental Agreement has been approved as to form by the Law Department.

Motion--  
--carried

Mayans moved that the Supplemental Agreement be approved and the necessary signatures authorized. Motion carried 7 to 0.

**EVERGREEN 5<sup>TH</sup>**

**STAKING IN EVERGREEN FIFTH ADDITION, NORTH OF 37TH STREET NORTH, EAST OF TYLER. (DISTRICT V)-SUPPLEMENTAL.**

Agenda Report No. 06-0099

The City Council approved the paving improvements in Evergreen 5th Addition on September 21, 2004. On December 20, 2005 the City approved an Agreement with Professional Engineering Consultants, P.A. (PEC) to design the improvements. The Design Agreement with PEC requires PEC to provide construction engineering and staking services if requested by the City.

The proposed Supplemental Agreement between the City and PEC provides for staking the improvements. Due to the current workload created by previous projects, City crews are not available to perform the staking for this project.

Payment to Baughman will be on a lump sum basis of \$15,000 and will be paid by special assessments.

The Supplemental Agreement has been approved as to form by the Law Department.

Motion--  
--carried

Mayans moved that the Supplemental Agreement be approved and the necessary signatures authorized. Motion carried 7 to 0.



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## HAWTHORNE

### **HAWTHORNE ADDITION, NORTH OF 21ST STREET EAST OF 127TH STREET EAST. (DISTRICT II)-SUPPLEMENTAL.**

Agenda Report No. 06-0100

On January 7, 2003, the City entered into an Agreement with MKEC Engineering Consultants, Inc. (MKEC) for designing water distribution system, sanitary sewer, drainage and paving improvements in Hawthorne Addition. The fee was \$196,980.00.

An additional pond has been added to the scope of the project requiring adjustments to paving/incidental storm water sewer projects. A supplemental agreement has been prepared to authorize payment of the additional design work.

Payment to MKEC be on a lump sum basis of \$8,000 and will be paid by special assessments.

The Supplemental Agreement has been approved as to form by the Law Department.

Motion--  
--carried

Mayans moved that the Supplemental Agreement be approved and the necessary signatures authorized. Motion carried 7 to 0.

## WEST STREET

### **WEST STREET FROM MAPLE TO CENTRAL. (DISTRICTS IV AND VI)- SUPPLEMENTAL.**

Agenda Report No. 06-0101

On May 4, 2004, the City entered into an Agreement with Baughman Company, P.A. for designing improvements to West Street from Maple to Central. The fee was \$209,300.

Central intersection has been added to the scope. A supplemental agreement has been prepared to authorize the additional design work.

Payment to Baughman for the Supplemental Agreement will be made on a lump sum basis of \$57,500, and will be paid by General Obligations Bonds.

The Supplemental Agreement has been approved as to form by the Law Department.

Motion--  
--carried

Mayans moved that the Supplemental Agreement be approved and the necessary signatures authorized. Motion carried 7 to 0.

## HILLSIDE

### **HILLSIDE FROM KELLOGG TO CENTRAL. (DISTRICT VI)-SUPPLEMENTAL.**

Agenda Report No. 06-0102

On April 17, 2001, the City entered into an Agreement with Baughman Company, P.A. for designing improvements to Hillside from Kellogg to Central. The fee was \$196,000. The project was on hold for over 2 years due to difficulties with right-of-way condemnations. Further revisions to the plans were necessary to reduce or minimize additional right-of-way acquisitions. Additional funds are needed to cover costs and overhead to complete this project.

A supplemental agreement has been prepared to authorize the additional funding.

Payment to Baughman for the Supplemental Agreement will be made on a lump sum basis of \$17,325, and will be paid by General Obligations Bonds.

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The Supplemental Agreement has been approved as to form by the Law Department.

Motion--  
--carried

Mayans moved that the Supplemental Agreement be approved and the necessary signatures authorized.  
Motion carried 7 to 0.

## COWSKIN CREEK

### **A DRAINAGE STUDY AND CONCEPT DESIGN SERVICES FOR COWSKIN CREEK AND A PRIVATE POND, 13TH STREET NORTH, WEST OF 119TH STREET WEST. (DISTRICT V)**

Agenda Report No. 06-0103

The 2002 Capital Improvement Program includes funding for 13th Street Bridge improvements at Cowskin Creek.

The proposed Agreement between the City and MKEC Engineering Consultants, Inc. (MKEC) provides for a drainage study and concept design that will reduce the frequency of the Cowskin Creek from overtopping 13th Street North during significant rain events. The area west of the Cowskin is rapidly growing with six new large subdivisions being developed along 13th Street. Staff has identified existing conditions and possible solutions that can reduce the frequency of planned overtopping of 13th Street. The Staff Screening and Selection Committee selected MKEC for the design on December 6, 2005.

Payment to MKEC will on a lump sum basis of \$50,800, and will be funded by General Obligation Bonds. The money used to fund this study concept is from the remaining 13th Street Cowskin Bridge budget.

The Agreement has been approved as to form by the Law Department.

Motion--  
--carried

Mayans moved that the Agreement be approved and the necessary signatures authorized. Motion carried 7 to 0.

## PRAIRIE POND PLZA

### **CONSTRUCTION ENGINEERING AND STAKING IN PRAIRIE POND PLAZA ADDITION, NORTH OF KELLOGG, EAST OF 143RD STREET EAST. (DISTRICT II)**

Agenda Report No. 06-0104

The City Council approved the storm water drainage improvements in Prairie Pond Plaza Addition on January 4, 2005. On July 12, 2005 the City approved an Agreement with Baughman Company, P.A. to design the improvements. The Design Agreement with Baughman requires Baughman to provide construction engineering and staking services if requested by the City.

The proposed Supplemental Agreement between the City and Baughman provides for construction engineering and staking the improvements. Due to the current workload created by previous projects, City crews are not available to perform the construction engineering and staking for this project.

Payment to Baughman will be on a lump sum basis of \$13,625 and will be paid by special assessments.

The Supplemental Agreement has been approved as to form by the Law Department.

Motion--  
--carried

Mayans moved that the Supplemental Agreement be approved and the necessary signatures authorized.  
Motion carried 7 to 0.

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## DESIGN SERVICES AGREEMENTS:

### EMERALD BAY

#### EMERALD BAY ESTATES, WEST OF WEST STREET, NORTH OF 21ST STREET. (DISTRICT V)

Agenda Report No. 06-0105

The City Council approved the water distribution system, sanitary sewer, drainage and paving improvements in Emerald Bay Estates on January 24, 2006.

The proposed Agreement between the City and Ruggles & Bohm, P.A. (R&B) provides for the design of bond-financed improvements consisting of water distribution system, sanitary sewer, drainage and paving in Emerald Bay Estates. Per Administrative Regulation 7a, staff recommends that R&B be hired for this work, as this firm provided the preliminary engineering services for the platting of the subdivision and can expedite plan preparation.

Payment to R&B will be on a lump sum basis of \$280,100 and will be paid by special assessments.

The Agreement has been approved as to form by the Law Department.

Motion--  
--carried

Mayans moved that the Agreement be approved and the necessary signatures authorized. Motion carried 7 to 0.

### MASCOT

#### MASCOT FROM 29TH STREET NORTH TO 31ST STREET NORTH. (DISTRICT VI)

Agenda Report No. 06-0106

The City Council approved the paving project on November 1, 2005.

The proposed Agreement between the City and Certified Engineering Design, P.A. provides for the design of paving Mascot from 29th Street North to 31st Street North. The Staff Screening & Selection Committee selected Certified for the design on December 9, 2005.

Payment to Certified will be on a lump sum basis of \$12,450, and will be paid by special assessments and General Obligations Bonds.

The Agreement has been approved as to form by the Law Department.

Motion--  
--carried

Mayans moved that the Agreement be approved and the necessary signatures authorized. Motion carried 7 to 0.

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## EBERLY FARM

### **EBERLY FARM OFFICE PARK, EAST OF 135TH STREET WEST, SOUTH OF 21ST STREET. (DISTRICT V)**

Agenda Report No. 06-0107

The City Council approved the water distribution system and sanitary sewer improvements in Eberly Farm Office Park on November 1, 2005.

The proposed Agreement between the City and Baughman Company, P.A. provides for the design of bond-financed improvements consisting of water distribution system and sanitary sewer in Eberly Farm Office Park. Per Administrative Regulation 7a, staff recommends that Baughman be hired for this work, as this firm provided the preliminary engineering services for the platting of the subdivision and can expedite plan preparation.

Payment to Baughman will be on a lump sum basis of \$10,400 and will be paid by special assessments.

The Agreement has been approved as to form by the Law Department.

Motion--  
--carried

Mayans moved that the Agreement be approved and the necessary signatures authorized. Motion carried 7 to 0.

## CHANGE ORDER

### **CHANGE ORDER-HARRY IMPROVEMENT BETWEEN I-135 FREEWAY AND GEORGE WASHINGTON BOULEVARD. (DISTRICTS I AND III)**

Agenda Report No. 06-0108

On January 25, 2005, the City Council approved a construction contract with Cornejo & Sons, Inc. to improve Harry, between I-135 and George Washington Boulevard. After project letting, a number of additional work items were identified that should be addressed through a change order. They include: additional milling and asphalt overlay required to match existing pavement, additional signal wire conduit needed because existing conduit was crushed and could not be re-used, additional street signs were needed and a storm sewer was extended to improve drainage at Erie Street.

A Change Order has been prepared for the additional work. Funding is available within the project budget.

The cost of the additional work is \$61,374, with the total paid by a combination of City-at-Large (\$12,274) and Federal Grants administered by the Kansas Department of Transportation (\$49,100). The original contract amount is \$1,164,631. This Change Order plus previous Change Orders represents 5.63% of the original contract amount.

The Law Department has approved the Change Order as to legal form. The Change Order amount is within the 25% of construction contract cost limit set by City Council policy.

Motion--  
--carried

Mayans moved that the Change Order be approved and the necessary signatures authorized. Motion carried 7 to 0.

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## PROPERTY ACQUISITIONS:

### UTILITY ESMNT

#### UTILITY EASEMENT IN THE 2100 BLOCK OF NORTH 135TH FOR THE NORTH AREA SEWER PROJECT. (DISTRICT V)

Agenda Report No. 06-0109

On October 21, 2003, the City Council approved the construction of force mains; pump stations and gravity-flow sewer lines to serve northwest Wichita. The project requires the acquisition of easements on several tracts of land. Two easements remain to be acquired. One of the required easements is across the front of a vacant tract of land owned by the seller.

The project requires the acquisition of a 3,450 square feet permanent easement across the east 15 and 40 feet of a vacant tract in the 2100 block of North 135th. A temporary easement consisting of 17,550 square feet is also required across the east 85 and 100 feet of the property. The easement and temporary construction easement were valued at \$3,500. This amount was offered to the property owner and accepted.

A budget of \$4,000 is requested for the acquisition. This amount includes \$3,500 for the acquisition and \$500 for closing costs and title insurance. The funding source is the sewer utility.

The Law Department has approved the contact as to form.

Motion--  
--carried

Mayans moved that the budget and the Real Estate Purchase Contract be approved and the necessary signatures authorized. Motion carried 7 to 0.

### 1016 E. PAWNEE

#### A PORTION OF 1016 EAST PAWNEE FOR PAWNEE WIDENING IMPROVEMENT PROJECT FROM WASHINGTON TO HYDRAULIC. (DISTRICT III)

Agenda Report No.06-0110

On October 21, 2003, the City Council approved the improvement and widening of Pawnee from Washington to Hydraulic. The project will require partial or total acquisition of 21 parcels. The parcel in question is the final parcel needed for the project. 1016 East Pawnee is the location of the Trinity Baptist Church. The main church parking lot is immediately east of the church across Ida. The project requires a 120 square foot triangle from the corner of the church site and 5,80 square feet from the parking lot.

The acquisition from the parking lot reduces the parking for the church below code requirements. To remedy this requires that a house north of the parking lot, owned by the church, be demolished and the site incorporated into the remainder of the existing parking lot. The new parking lot will be required to meet various landscaping, screening, and setback requirements per code. The cost of demolition and reconstruction has been estimated at \$149,645. The land required for the project was valued at \$4.50 per square foot or \$23,850. The project will also require the removal and reconstruction of the church sign at a cost of \$6,755. The total cost is \$180,250. This amount was offered to the owner and accepted.

The funding source for the project is General Obligation bonds and Federal monies. A budget of \$181,250 is requested. This includes \$173,495 for the acquisition, \$6,755 for sign relocation, and \$1,000 for title work and closing costs.

The Law Department has approved the contract as to form.

Motion--  
--carried

Mayans moved that the budget be approved and the necessary signatures authorized. Motion carried 7 to 0.

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MERIDIAN/53<sup>RD</sup> ST.

## **PARTIAL ACQUISITION OF LAND FOR A TEMPORARY CONSTRUCTION EASEMENT ON THE NORTH AREA SEWER SANITARY LINE NEAR MERIDIAN AND 53RD STREET NORTH. (DISTRICT VI)**

Agenda Report No. 06-0111

On October 21, 2003, the City Council approved the construction, extension of a sanitary sewer line and pump lift station to provide service to newly developing areas in north Wichita. This project requires the acquisition of utility easements on 10 tracts of land for permanent easements and a lift pump station, utility easements to the facility and temporary construction easements on property owned by multiple landowners.

This last easement to acquire on the project is a 30-foot temporary construction easement consisting of approximately 32,109 square feet. The tract is presently improved as irrigated agricultural land. The property owner has agreed to provide the necessary easement to the city for \$3,470, or approximately .10 cents per square foot.

A budget of \$3,820 is requested. This includes the \$3,470 for the acquisition and damages, \$350 for title work, closing costs, etc. The funding source is the sewer utility.

The Law Department has approved the contracts as to form.

Motion--  
--carried

Mayans moved that the Budget and the Real Estate Purchase Contract be approved and the necessary signatures authorized. Motion carried 7 to 0.

DRAINAGE ESMNT

## **ACQUISITION OF RIGHT OF WAY AND DRAINAGE EASEMENT FOR GREENWICH ROAD IMPROVEMENT PROJECT, 13TH STREET TO 27TH STREET NORTH. (DISTRICT II)**

Agenda Report No. 06-0112

On September 20, 2005, City Council approved a project to improve Greenwich Road, between 13th and 27th Street North. The project will reconstruct Greenwich to provide a 4 and 6-lane roadway and median for left turn lanes. The project required additional right-of-way. The last remaining necessary Right-of-Way, Construction and Drainage Easements are owned by Raytheon Aircraft Holdings, Inc. RAC is willing to grant the necessary 6.21 acres total of Right of Way, Temporary Construction Easements, and Drainage Easements for this project. Construction activities will result in the loss of a tree that provides screening for industrial activities and a security fence. As compensation for the damages to the trees and fence, Raytheon has agreed to accept funds sufficient to erect a solid concrete fence following the project's completion.

Compensation for Right-of-Way, easements and damages is \$55,000.00.

A budget of \$55,000 is requested.

The Law Department has approved the documents as to form.

Motion--  
--carried

Mayans moved that the budget and easements be approved and the necessary signatures authorized. Motion carried 7 to 0.

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## **ASSESSMENT ROLLS PROPOSED ASSESSMENT ROLLS.**

Proposed Assessment Rolls have been prepared for Thirty-six (36) paving projects and it is necessary to set a public hearing date. Informal hearing with City personnel will be held February 27, 2006 at 11:00 a.m.

Motion--

Mayans moved that the hearing on the Proposed Assessment Rolls be set for 9:30 a.m., Tuesday, March 7, 2006 and the City Clerk be directed to publish the notices of hearing at least once not less than 10 days prior to the date of the hearing. Motion carried 7 to 0.

--carried

## **SAN. SEWER REHAB. EMERGENCY SANITARY SEWER REHABILITATION. (DISTRICT II)**

Agenda Report No. 06-0113

While performing routine cleaning in a sanitary sewer main, the head of the percussion cutter punctured the bottom of the sanitary sewer main and became partially lodged outside the main. This occurred at 640 North Rock Road.

City crews were not able to dislodge the equipment from inside the main. In order to excavate the area, specialized equipment would be required due to the depth of the pipe, area groundwater and proximity of the sewer main to a town home. The equipment in the main was beginning to cause sewer problems for the area homeowners. Due to the severity of the situation, the City Manager approved proceeding with informal bids on an emergency basis.

It was necessary to have the repair done by an outside contractor. Staff met on site with several contractors to take informal bids to retrieve the equipment and repair the sewer main. It was decided excavation should be a last resort and alternative methods should be sought to dislodge the equipment, quickly followed with a cured-in-place liner to repair the damage. Utility Maintenance Contractors installs cured-in-place sewer liners and had a crew in town working on another City project. Utility Maintenance Contractors offered to bid on lining the sewer main, if others could retrieve the equipment. Staff made several additional attempts at removal and were successful. With Utility Maintenance Contractors on standby, the sewer main was repaired within two days after the equipment was removed from the main.

Utility Maintenance Contractors submitted a bid of \$12,900 to install the cured-in-place liner to repair the damage to the sewer main. Funds are available in Reconstruction of Old Sanitary Sewers (CIP S-4). The project will be funded from future sewer revenue bonds and/or Sewer Utility cash reserves.

City Ordinance 2.64.020, "Public Exigency," authorizes the City Manager to approve work to be performed by a contractor without formal bidding.

Motion--

Mayans moved to affirm the City Manager's Public Exigency approval of the project and the necessary signatures authorized. Motion carried 7 to 0.

--carried

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(Item 14)

2006 RELIEF FUND

## DECLARATION FOR PARTICIPATION IN FIREFIGHTERS RELIEF FUND FOR 2006.

Agenda Report No. 06-0114

The Declaration for Participation must be executed and filed each year to allow the local Firefighters Relief Association to participate in the distribution of the State Firefighters Relief Fund Tax. This Firefighters Relief Fund Tax distribution will be from all fire and lightning insurance premiums collected. The certification indicates that the Wichita Fire Department is a full paid, public fire department with 405 salaried firefighters, and has fire apparatus and necessary equipment that is in serviceable condition with a value exceeding \$20,000,000.00.

By State Statue, two percent of the total premium on fire and lightning insurance written within the State during a calendar year goes to the Commissioner of Insurance to establish the State Firefighter's Relief Fund. After certain payments required by law, the balance of the fund is paid to local firefighters relief associations to be used for benefits for firemen injured, disabled, or killed in the line of duty, payment of funeral expenses, payment of a pension benefit for full-time firemen who are unfit for service after serving 20 years with the department, and to purchase insurance which would provide any of the listed benefits. The Wichita Firemen's Relief Association received \$855,076.54 in the 2004 distribution and received \$832,849.16 in the 2005 distribution. Distribution of the fund to over 575 Associations throughout the state is calculated using the valuation and population of the area the department provides fire protection. The City of Wichita has had a Wichita Firemen's Relief Association since 1896 and has participated in the State Firefighters Relief Association for more than 80 years. The certification is for calendar year 2006.

The Firefighters Relief Fund was created by K.S.A. 40-1701, et seq., and K.A.R. 40-10-1, et seq.

There will be no expense to the City.

Mayor Mayans

Mayor Mayans stated that the issue on this item is that there is a Fire Fighter's Relief Fund that has certain monies that are available for distribution and those monies are received from the insurance company, that finds its way to the Insurance Commissioner and then down to the Fire Fighter's Relief Fund. Stated that these monies are then dispersed to benefit fire fighters who are injured, disabled or killed in the line of duty. Stated that one of the issues regarding some of the businesses that pay this tax are located at the airport, yet the fire fighters that we have at the airport cannot benefit from this fund. Stated that one of the reasons is because they are not part of the Fire Fighter's Union, which we have discussed and is an issue that needs to be resolved. Stated that these people are currently being denied this benefit and as we move forward and talk about public safety as being a priority, he feels that those that are involved with public safety should all be treated equally.

Gary Rebenstorf

Director of Law, stated that under the statute that sets up this relief association and the fund, there is a requirement that the City Attorney review and approve all disbursements of the fund and that he works with the members of that fund as they deal with those and he is sent information each month about that. Stated that he approves them and that recently he received an e-mail from the fund and the association asking him that very question as to whether the airport safety officers at the airport are members of the fund. Stated that he has been asked to review this but has not completed it at this time. Stated that his duties under the statute for approving and reviewing those fit within his ability as a City Attorney to answer that question, whether they would be part of that fund. Stated that he is working on this right now but has not completed it.

Council Member Schlapp

Council Member Schlapp asked if it was possible to defer this item until they get an answer to the questions.



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- Gary Rebenstorf Director of Law stated that he feels that the Council can go ahead and adopt this today to have the participation, so that we can keep this going forward for the fire fighters that are covered at this point in time and then if we have to we can come back and make changes to it if it is necessary.
- Mayor Mayans Mayor Mayans inquired whether anyone from the audience wished to be heard.
- Doug Pickard Mr. Pickard, President of the Fire Fighter's Union, stated that they have recently taken in seven officers at the airport and have a unit chair out there, Captain Jim Kirkpatrick who is from the airport.
- Jim Kirkpatrick Mr. Kirkpatrick stated that he is a captain out at the airport and has been discussing with the insurance department in Topeka as to whether they qualify for this benefit. Stated that according to them if item 14 was amended to include the airport public safety at the airport, that they would be covered under the Fire Relief Act. Stated that they have the fire equipment necessary to meet the requirements and are city employees and are also full time employees. Stated that the way he understands the statutes, they meet the criteria for being included in item 14 and all it takes is for the City to certify it.
- Mayor Mayans Mayor Mayans asked Mr. Kirkpatrick if the statutes say that the elected officials can make the decision instead of staff.
- Jim Kirkpatrick Mr. Kirkpatrick stated that when he spoke to the insurance person who handles the relief fund in Topeka, he said that it would just take a letter of certification from the City, which generally comes from the City Attorney, stating that they are firemen and are full time and that they meet the criteria of providing fire service to the City of Wichita. Stated that this is what item 14 is. We are providing a certification that you have firemen working for the City and are paid full time , meeting the equipment requirements and that then entitles them to participate in the State's Fireman Relief Fund.
- Doug Pickard Mr. Pickard stated that the question before us today is, is this of the utmost importance to pass today. Stated that the deadline is April 1<sup>st</sup> and that they had conversations with the insurance commissioner's office yesterday and that the point man for the State on the fire relief act is more than willing to come down and mediate, arbitrate or try to settle the issue. This is why they are asking that this be deferred so that the can resolve this issue in 20 or 30 days.
- Gary Rebenstorf Director of Law stated that from the standpoint of what the statutes say, he has an obligation to make a determination of whether or not the airport safety officers are part of this unit and would be eligible for these funds. Stated that if there is a decision made to include the, that would be the City Council, but under the statute, the City Attorney has to approve the disbursement of those funds, so he has to render a legal opinion.
- George Kolb City Manager stated that the specific action that the City Council is being asked to make is whether or not the City should participate in this relief association fund and under state law, it is required that the City pass a resolution or take action to participate. Stated that in terms of who is covered, the law requires that the City Attorney determines who is eligible to participate as it relates to fire fighting personnel. Stated that whether this is deferred today or not the role that the City Council is playing is just to participate in the program.
- Mayor Mayans Mayor Mayans stated that he would feel more comfortable to defer this until some of these issues can be addressed.
- Council Member Fearey Council Member Fearey stated that she is very comfortable with going ahead and passing this today. Stated that it is something that we need to do for everybody who is currently a fire fighter and we know that they are under this and then work out the other issue and come to a conclusion.

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Council Member Brewer Council Member Brewer stated that he thinks that there is more going on here then is actually being said because we are asking whether or not we should support being involved in this and it has nothing to do with whether or not you have the fire fighters at the airport or the fire fighters inside the City involved in it. Stated that financially he does not feel that it is going to have an impact on either one if it were approved today. Stated that he is okay with deferring this but would like to make sure that all parties understand that it is obvious that there is more going on here then what is openly being said.

Motion-- Fearey moved that the Declaration for Participation in the Firefighters Relief Association for 2006  
--failed be approved and the necessary signatures authorized. Motion failed due to lack of a second.

Motion--carried Gray moved to defer this item until resolution can be reached. Motion carried 6 to 1, (Fearey-nay).

## (Item 15)

### INSURANCE SERV.

### INSURANCE PLACEMENT SERVICES.

Agenda Report No. 06-0115

On December 7, 2004, the City Council approved a contract for placement services for property and casualty insurance with Marsh USA. The original contract amount is \$45,000. The current contract expires on December 31, 2005, but the contract includes four one-year renewals. Under the terms of the existing contract, if the City elects to add additional insurance coverage not then in effect, the parties will negotiate additional fees to cover such additional services.

Over time, the scope of services has increased. The City has increased Museum Fine Arts insurance coverage by \$20,000,000 and added a new Airport excess liability policy for an additional \$50,000,000. In addition the City is pursuing placement of new Federal and Out of State Excess Liability Insurance. Finally, the Skycap coverage was terminated and all City property and casualty insurance policies were converted to a calendar year basis.

Due to the purchase of additional insurance coverage and modifications to the City's risk protection program, staff has negotiated a \$9,500 increase in placement fees. If approved, maximum fees will not exceed \$54,500. The Self Insurance fund budget includes funding for this contract.

The contract amendment has been approved by the Department of Law as to form.

Mayor Mayans Mayor Mayans stated that he has a couple of questions on the insurance placement. Stated that the green sheet talks about the parties will negotiate additional fees to cover such additional services. Asked if we are talking about commissions on the purchase of the policies or some other type of fees.

Kelly Carpenter Director of Finance explained that this contract is strictly a fix fee contract. If the vendor receives any commissions then the fix fee is reduced by that amount. This is an additional fix fee to place these additional insurance policies that staff have determined that we need to evaluate and see if we need.

Motion-- Mayans moved that the contract amendment be approved and the necessary signatures authorized.  
--carried Motion carried 7 to 0.

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## SEWER INSPECTION SANITARY SEWER INTERCEPTOR INSPECTION. (DISTRICTS I AND III)

Agenda Report No. 06-0116

On July 26, 2005, City Council approved \$75,000 for inspection of the access tunnels leading to a 54-inch sanitary sewer interceptor underneath the northbound lanes of I-135. Staff requested approval for the inspection after sewer maintenance crews discovered deterioration in the tunnel walls while performing other maintenance. Deterioration can cause structural failures and pose a traffic hazard. Staff had based the original estimate for this inspection on an inspection performed in 2003 on the sanitary sewer to which these tunnels lead.

Three firms responded to the Request for Proposals, with prices ranging from \$183,000 to \$438,000 for the access tunnel inspection. The Staff Screening and Selection Committee met on December 14, 2006, and selected CH2M Hill as the best proposal with a cost of \$183,000. Staff and CH2M Hill worked to modify the scope of work and inspection methods in order to reduce the cost and still fulfill the inspection requirements.

The revised cost is \$150,000 for the tunnel and manhole inspections. CIP S-534, I-135 Pawnee to English, has \$8 million available for inspection and reconstruction, if needed. Staff will return to City Council for authorization of repairs or reconstruction, as required. The project will be funded from sewer utility bond issues and/or cash reserves.

The Law Department will review and approve the Contract as to form.

Motion--  
--carried

Mayans moved that the revised project cost be approved; Staff authorized to proceed with the project and the necessary signatures authorized. Motion carried 7 to 0.

## RAYTHEON

### RELOCATION OF RAYTHEON AIRCRAFT PIPELINE ALONG WEBB ROAD. (DISTRICT II)

Agenda Report No. 06-0117

On August 10, 1999, the City Council approved improvements to Webb Road from Pawnee to south of Harry. A private gas pipeline, located in a private easement and owned by Raytheon Aircraft Holdings, Inc., was relocated as a part of this project. It is the responsibility of City of Wichita to pay for relocation of utilities located in prior existing private easements. Raytheon Aircraft Holdings completed pipeline relocation in spring, 2000 at City of Wichita's request. Reimbursement for this relocation remains outstanding. The City Engineer has reviewed and acknowledged the costs incurred to Raytheon for this relocation.

Costs to relocate the gas pipeline were \$95,032.32.

A budget of \$95,032.32 is requested. Funds are available in the Greenwich Road Project.

Motion--  
--carried

Mayans moved that the relocation costs be approved and the necessary signatures authorized. Motion carried 7 to 0.

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**DELTA DATA SYS.**

## **EXTENSION OF LETTER OF INTENT FOR INDUSTRIAL REVENUE BONDS, DELTA DATA SYSTEMS, INC. (DISTRICT II)**

Agenda Report No. 06-0118

On February 8, 2005, the City Council approved a one-year Letter of Intent to issue Industrial Revenue Bonds in an amount not-to-exceed \$9,000,000 to Delta Data Systems, Inc. for the benefit of Delta Dental Plan of Kansas, Inc. The proceeds of the proposed bonds will be used to finance the cost of acquiring, construction and equipping a corporate headquarters facility located in the Waterfront Addition at 13th & Webb. Construction has begun but will not be complete by the time the Letter of Intent will expire. The company is now requesting a one-year extension of the Letter of Intent until February 8, 2007.

Delta Data Systems, Inc. has made substantial progress on construction of its new corporate office; however, they anticipate the construction will be complete by late summer or early fall. A one-year extension will provide ample time in the event of unforeseen delays.

There is no financial impact on the City resulting from the requested extension.

Bond documents required for the issuance of bonds will be prepared by bond counsel. The City Attorney's office will review and approve the form of bond documents prior to the issuance of any bonds.

Motion--

Mayans moved that the extension of the Letter of Intent to Delta Data Systems, Inc. for Industrial Revenue Bonds in an amount not-to-exceed \$9,000,000 for a one-year period ending February 8, 2007 be approved. Motion carried 7 to 0.

--carried

**IMA PLAZA, LLC**

## **PURCHASE OPTION, IMA PLAZA, L.L.C. (DISTRICT VI)**

Agenda Report No. 06-0119

On November 4, 1997, City Council approved the issuance of \$4.6 million in Industrial Refunding Revenue Bonds, Series XIV, 1997, to IMA Plaza LLC. The purpose of the bonds was to redeem the outstanding principal amount of the Series VII-A, 1991 Bonds. The 1991 Bond issue financed the refunding of IMA's 1981 Bond issue, which financed the construction of IMA's office building on the southeast corner of 2nd and Water.

Under the provisions of Sections 17.1 and 17.2 of the Lease Agreement for the bond series, IMA Plaza has the option, if all outstanding bonds have been paid, to purchase the facility from the City of Wichita for the sum of \$1000. On January 25, 2006, staff received notice from the Tenant informing the City of Wichita of the company's intention to exercise its purchase option. The Lease allows for closing of the purchase thirty days following the receipt of the notice.

Under the terms of the Lease, the City is required to convey the property securing the IRB issue to the Tenant, once the Tenant has paid the purchase price and other considerations as listed under the provisions of the Lease Agreement, including the payment of all outstanding bonds. The City received notice from The Bank of New York, Trustee for the Company, that all Bonds were paid in full on December 1, 2005, and that IMA Plaza has no further obligations as it pertains to the bond financing.

The purchase price is \$1000 and other considerations as listed under the provision of the Lease Agreement and Indenture to redeem and retire or defease all outstanding bonds. This price includes without limitations, principal, interest, redemption premium, and all other expenses of redemption, and trustee fees, but after the deduction of any amounts described and provided for in the Lease Agreement and available for such redemption.

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The City is contractually bound to convey the IRB Project property to the Tenant by Special Warranty Deed, once all the conditions established in the Lease and Indenture have been met. The City Attorney's Office has approved the form of the Resolution to authorize the execution of the Special Warranty Deed and the Termination of Lease Agreement.

Motion--

Mayans moved that the Resolution authorizing the Special Warranty Deed and the Termination of Lease Agreement, with delivery to occur on or after February 24, 2006 be adopted and the necessary signatures authorized. Motion carried 7 to 0.

--carried

## RESOLUTION NO. 06-047

A Resolution authorizing the City of Wichita, Kansas, to release and reconvey certain real property to IMA Plaza LLC and prescribing the form of and authorizing the execution and delivery of certain documents in connection therewith, presented, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Martz, Schlapp, Skelton, and Mayans.

## TYPED LETTERS

### PURCHASE OPTION, TYPED LETTERS. (DISTRICT V)

Agenda Report 06-0120

On February 4, 2003, the City Council approved the issuance of \$1,540,500 in Industrial Revenue Refunding and Improvement Bonds, Series II, 2003, for the benefit of Typed Letters Corporation. The Bonds were used to construct a new addition to the existing facility subleased by S&R Properties, LLC (the "Tenant") to Typed Letters Corporation, and to refinance existing debt.

Under the provisions of Sections 17.2 of the Lease Agreement for the bond series, the Tenant has the option, if all outstanding bonds have been paid, to purchase the facility from the City of Wichita for the sum of \$1,000. The City of Wichita has been notified of the Tenant's request to call outstanding bonds prior to maturity, on the first available call date of February 1, 2008, and of the Tenant's intention to exercise its purchase option by setting up a cash defeasance escrow to fund the 2008 redemption and pay principal and interest due to and including the call date. In connection with the exercise of the purchase option, the company has asked that the City waive the 45-day notice period so that it can close on the purchase by February 10, 2006.

Under the terms of the Lease, the City is required to convey the personal property securing the IRB issue to the Tenant, once the Tenant has paid the purchase price and other considerations as listed under the provisions of the Lease Agreement, including the payment of all outstanding bonds (which may be done via cash defeasance).

The purchase price is \$1,000 and other considerations as listed under the provision of the Lease Agreement to redeem and retire all outstanding bonds. This price includes without limitations, principal, interest, redemption premium, and all other expenses of redemption, and trustee fees, but after the deduction of any amounts described and provided for in the Lease Agreement and available for such redemption.

The City is contractually bound to convey the IRB Project property to the Tenant by Special Warranty Deed, once all the conditions established in the Lease and the Resolution have been met. The City Attorney's Office has approved the form of the Resolution to authorize the execution of the Special Warranty Deed and the Termination and Release of Lease Agreement.

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Motion--

Mayans moved that the Resolution authorizing the reconveyance of the Project and the optional redemption of the Bonds at the earliest available call date, subject to the conditions specified therein be adopted and the necessary signatures authorized. Motion carried 7 to 0.

--carried

## RESOLUTION NO. 06-048

A Resolution of the City of Wichita, Kansas, authorizing the City to convey title to the project financed with the proceeds of the City's Industrial Revenue Refunding and Improvement Bonds, Series II, 2003; authorizing execution of a Special Warranty Deed and Termination and Release of the Lease; authorizing the optional redemption of such Series II, 2003 Bonds; and authorizing the execution of all such other documents necessary to accomplish the purposes of the Resolution. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Martz, Schlapp, Skelton, and Mayans.

## SEWER EASEMENT

### SEWER EASEMENT ACROSS A PORTION OF CITY-OWNED PROPERTY AT 21ST STREET NORTH AND HOOVER. (DISTRICT V)

Agenda Report No. 06-0121

The City owns 75.8 acres located between 21st Street North, Zoo Boulevard and the Big Ditch just east of Hoover Road. The land is currently undeveloped but is slated to be utilized for a water distribution facility. In order to provide sewer service to properties on the north side of 21st Street, a 20 foot wide sewer easement is required along the north side of the west 508.03 feet of the tract.

The easement will provide service to development on the north side of 21st Street North as well as future development. Due to existing utilities and the location of a planned water line, the sewer cannot be located in existing right of way on the north side of 21st Street North. The easement does not impact the future plans for the site.

There is no cost to the City.

The Law Department has approved the easement as to form.

Motion--

Mayans moved that the easement be approved and the necessary signatures authorized. Motion carried 7 to 0.

--carried

## NEW BUSINESS

## PRETREAT. SEWER

### PRETREATMENT SEWER USE-AMENDED ORDINANCE.

David Warren

Director of Water and Sewer reviewed the item.

Agenda Report No. 06-0122

The United States Environmental Protection Agency and the Kansas Department of Health & Environment (KDHE) require the City to control the discharge of pollutants from industrial sources to the City's sanitary sewer system. Federal Pretreatment Regulations (40 CFR 403) require that Publicly Owned Treatment Works develop and enforce site-specific pollutant limits to protect the sanitary sewer collection system, plant operations, the City workers' health and safety, and comply with its National Pollutant Discharge Elimination System (NPDES) discharge permit and biosolids disposal regulations. The City has a United States Environmental Protection Agency (USEPA) approved pretreatment program and is required to continue to develop and enforce such limits. These site-specific protections are referred to as "Local Limits."

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Local limits were developed by Staff and approved by City Council in 1992 and revised in 1998. USEPA recommends that the City routinely re-evaluate local limits to reflect changes in regulations and wastewaters characteristics. Public Notice of the current and proposed local limits and this public hearing were published in the official City paper.

Using technical guidance prepared by the USEPA, Staff identified the following pollutants that require revising current local limits, or developing a new local pollutant limit:

Parameter	Existing Limit – Lbs/da	Proposed Limit – Lbs/da
Arsenic Cyanide (total)	NA9.8	5.317.23
Copper	19.61	56.21
Nickel	87.34	36.50
Chromium	35.20	84.72
Silver	38.4	24.26
Zinc	352	162.7
Lead	59.9	1.65
Cadmium	9.53	3.95
Mercury	.007	.310
Molybdenum	NA	5.39
Phenol Compounds	80.5	80.5
Aqueous Hydrogen Sulfide	1 mg/L	1 mg/l
Upper pH limit	10.5 units	12.0 units

With the exception of hydrogen sulfide and the pH limits, the pollutants are allocated to each industrial user. Allowable concentrations are distributed to each user based on their daily sewer discharge rate. Distributing pollutants based on sewage flow rates encourages water conservation practices, discourages dilution of waste streams in order to achieve compliance, and recognizes that larger industries frequently have more resources available to meet discharge limits than smaller companies.

Staff also recommends that the Ordinance 16.22.060 be amended as follows:

- Ø Require all commercial dischargers of silver and mercury, including photo processors and medical offices, to comply with management practices that reduce the amount of silver and mercury entering the City sanitary sewer system.
- Ø Prohibit wastes containing Aqueous Fire Fighting Foam in the amount that results in foam in the collection system, or the treatment process, in quantities that result in Public Owned Treatment Works (POTW) interference and or pass through, and inhibits the nitrification process at the POTW.

For Section 16.22.040 “Daily Discharge Flow,” Staff recommends that a definition of allowable limits for industries be added for clarification.

Wastewater monitoring costs are paid by the industrial user. Staff administrative costs to implement this program revision are recovered in the Industrial Wastewater Pretreatment Program Permit Fee. A few industrial dischargers may incur costs associated with industrial pretreatment plant modifications to meet proposed local limits. All proposed local limits can be met by implementing or modifying industrial pretreatment systems, which reduce the financial impact incurred by the City to treat large volumes of wastewater contaminated with small volumes of high strength industrial wastes.

Meeting proposed limits assures continual economic growth and mitigates concerns that the City may have in making choices of prohibiting new industries and restricting industrial expansions to meet NPDES wastewater plant discharge limits.

The amended Ordinance has been reviewed and approved by the Law Department, USEPA and KDHE.

Mayor Mayans

Mayor Mayans inquired whether anyone from the audience wished to be heard.

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John Stratman

Mr. Stratman stated that he is with the firm of Cintas Corporation and they are an industrial laundry that was referred to on one of the PowerPoints shown today. Stated that concerns that they had is not what the Council is going to approve today but that when it first came out they did not get the actual PowerPoint that was shown of what they would have to meet until about the middle of January. Stated that the numbers that were originally in there were about a factor of 10 lower than what was shown on today's PowerPoint but they discussed this with staff and they modified it and modified the ordinance to what the Council saw on the PowerPoint, which is much better. Stated that they are an industrial laundry and are not afraid to put in pretreatment and about 40% of their plants around the country have pretreatment. Stated that they do like the limits that are shown and do believe that they are reasonable at this time.

Motion--  
--carried

Mayans moved that the public hearing be closed; written comments received and the amended Ordinance placed on first reading.

## ORDINANCE

An Ordinance of the City of Wichita pertaining to prohibited discharges to the Municipal; sewer system; amending Sections 16.22.040 and 16.22.060 of the Code of the City of Wichita; and repealing the Original of said Sections, introduced and under the rules laid over.

## BOEING IRB

### **PURCHASE OPTION FOR 1995 PROJECT, (BOEING IRB ASSET TRUST).**

Allen Bell

Economic Development Administrator reviewed the item.

Agenda Report No. 06-0123

The City has outstanding eleven series of Industrial Revenue Bonds issued between December 1, 1995 and December 14, 2005, to finance facilities for the benefit of The Boeing Company ("Boeing"). Each series was issued as a stand-alone financing for a discrete project, under separate, project-specific Leases (the "Leases"). Bond proceeds for each series were used for the purpose of financing the costs of acquisition, construction, equipping and furnishing of certain industrial facilities (collectively the "Projects") for lease to, and use by, The Boeing Company. On June 16, 2005, Boeing assigned its interest in all of the Leases to BOEING IRB Asset Trust, a Delaware statutory trust ("Tenant"). Under the provisions of the applicable Lease Agreements the Tenant, if not in default, has the option to purchase each project from the City for a set price of \$1000, plus all amounts required to provide for redemption and payment of the principal, interest and premium on the outstanding bonds issued to finance that project, together with the Trustee's fees and costs of redemption. The City has received notice of the BOEING IRB Asset Trust's intention to exercise its purchase options for the property financed with the proceeds of the Series X, 1995 Bonds, and the firm of Kutak Rock LLP, Tenant's Bond Counsel, has submitted documents for that purpose.

Under the terms of the 1995 Lease Agreement, the City is required to convey the property securing the IRB issue to the BOEING IRB Asset Trust, as Assignee of the original Tenant, following the payment of all outstanding Series X, 1995 Bonds and the BOEING IRB Asset Trust's payment of the purchase price and other consideration under the provisions of the 1995 Lease Agreement.

The purchase price of \$1,000 and other consideration as required by the 1995 Lease Agreement has been paid by the Tenant prior to the submission of this agenda item.

It is appropriate for the City to sell and reconvey the 1995 project property to the BOEING IRB Asset Trust, and to terminate the lease and security interests and take all other actions needed to terminate the City's interest in the property. The City Attorney's Office has approved the form of the Resolution and the form of the Termination of Lease to be executed and delivered by the City, as well as the notice letter to be acknowledged by the City, and the Release of Lien of Indenture to be approved by the City and delivered to the Tenant by the Trustee.



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Mayor Mayans

Mayor Mayans inquired whether anyone wished to be heard and no one appeared.

Motion--  
--carried

Mayans moved that the Resolution approving the conveyance and termination instruments be adopted and the necessary signatures authorized. Motion carried 5 to 0, (Mayans and Brewer abstained due to conflict of interest).

## RESOLUTION NO. 06-049

A Resolution of the City of Wichita, Kansas, approving and authorizing the execution and delivery of a Termination of Lease, and other appropriate instruments. Mayans moved that the Resolution be adopted. Motion carried 5 to 0. Yeas: Fearey, Gray, Martz, Schlapp, Skelton, (Mayans and Brewer abstained due to conflict of interest).

## AIR FARES

### RESOLUTION OF SUPPORT FOR STATE FUNDING FOR AFFORDABLE AIR FARES.

Allen Bell

Economic Development Administrator reviewed the item.

Agenda Report No. No. 06-0124

The City of Wichita has joined with several regional organizations to seek assistance from the State of Kansas in the efforts to secure affordable air service at Mid-Continent Airport. The coalition of organizations includes Sedgwick County, the Wichita Metro Chamber of Commerce, the Greater Wichita Convention and Visitors Bureau, South Central Kansas Economic Development District (SCKEDD), the Regional Economic Area Partnership (REAP) and many other organizations. A resolution is being circulated to cities and counties that are members of REAP and SCKEDD, for adoption by the governing bodies, expressing support for the State's participation in the Kansas Air Service Development Program. This resolution is submitted herewith for consideration by the Wichita City Council.

Economic development professionals and site consultants know how much air fares impact business attraction, retention and jobs, because companies choose where they will locate and grow their business based on the "cost of doing business," including the cost of air service. One of the most critical elements of economic development and recruiting new companies to Kansas is based on the ease of travel to conduct business with customers. Because of this, affordable air fares has become an infrastructure issue - like highways and water supply; and, just like those resources, Kansas cannot afford to lose affordable air service. Major Kansas corporations, including Rent-A-Center, Pizza Hut and others have left Kansas, citing access to more flights and more affordable air fares as a reason.

Air fares also impact families who live in, work in and visit Kansas. Individuals and families choose where to live, work and visit based on availability of good jobs and quality of life issues, and the quality of commercial air service impacts both. Affordable air fares play a significant role in encouraging tourist travel to Kansas and recruiting conventions to Kansas. Bringing others to our state means bringing dollars to our state for tourism and convention spending.

The quality of air service at Mid-Continent Airport is a critical issue for the State of Kansas because Mid-Continent is Kansas' only airport with significant commercial air service. The map shows that the natural catchment area for Mid-Continent Airport, based on driving distance, covers two-thirds of the State and a majority of its residents. A recent study by WSU's Center for Business Research and Business Development shows that the State of Kansas would lose over \$10 million in annual tax dollars if Mid-Continent Airport were to lose its low-cost carrier, AirTran Airways.

In order for Kansas businesses to compete globally, for families to enjoy the opportunity for affordable leisure travel, and to increase tourism we must have a long-term strategy that makes Kansas' Mid-Continent Airport competitive with Missouri and Oklahoma. Because of geography and population size, Mid-Continent Airport is not naturally competitive. This has created a potential "death spiral" - a cycle of less flights leading to higher air fares, to business loss, to job loss, to fewer passengers, to fewer flights, and so on.

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In 2002, the Wichita community initiated a pilot program, consisting of a local public investment of \$9 million dollars and business investment of \$7.5 million dollars of air travel commitments, which has demonstrated the feasibility of affordable air fares at Mid-Continent Airport. That same public investment has saved the traveling public in Kansas over \$300 million dollars in lower air fares and has proven that effective actions can be taken to create affordable air fares.

It is now time for the State of Kansas to become financially involved in this crucial program to maintain and expand the scope of affordable air fares at Mid-Continent Airport. Visioneering Wichita's Unified Legislative Agenda Alliance has identified this issue as a top priority, as has the South Central Kansas Legislative Delegation. A bill has been introduced in the Legislature that will commit state funding of \$5 million per year for five years to this effort, provided there is a local match commitment of 20%. Adoption of the Resolution of Support by REAP and SCKEDD members will demonstrate the broad regional support for this initiative.

There is no financial impact resulting from the adoption of the Resolution of Support.

The City Council has the legal authority to adopt the proposed resolution.

John Waltner

Mayor of Hesston. Kansas and the Chairman of REAP's Legislative Committee stated that in 1997 a number of governmental officials from the South Central Kansas area got together to form council governments, which is now known as the Regional Economic Area of Partnership, (REAP). Stated that since then REAP has expanded and is grown into a coalition that now includes 32 cities and counties in South Central Kansas and operate under the principle that local, state and national governments are all partners in public service. Stated that the communities of REAP form a distinct regional economy that serves as the manufacturing backbone for the State of Kansas. Stated that over one-third of all the manufacturing jobs in the State are found in the REAP area and almost one half of the manufacturing income in Kansas comes from our area. Stated that the region is also the center for local trade and services, particularly health care, drawing economic activity into the area from beyond the borders of the region and the State of Kansas. Stated that citizens and businesses throughout the region and State should know that the current economic environment is global and are not only competing for economic opportunity with Kansas City, Tulsa, Little Rock but also with far away places such as Mexico City, Toronto, Berlin and Hon Kong. Stated that free trade and technology have created a global economy to which we must continually adapt for South Central Kansas or our entire State will indeed be left behind. A very key component of economic vitality is affordable air service, a compelling piece to our State's transportation infrastructure. Mid-size communities throughout the United States face the challenge of maintaining affordable air service; most have seen fewer flights, higher fares, business departures and job loss. Stated that over the past three years business and governmental leadership in the Wichita area have taken significant steps to confront this challenge and reverse this business spiral. This short-term pilot project is demonstrated very significant success and a longer-term solution should now be undertaken. We now have an opportunity to create a long-term equitable solution that benefits all Kansans, because affordable air fares through Mid-Continent Airport affects so much of the State of Kansas, the issue goes far beyond Wichita, Sedgwick County and South Central Kansas. It is indeed a State issue and it is about the economic security and growth of the state. People in our state have saved more than 230 million dollars, which has gone back into the economy, our jobs and our citizen's pockets to spend elsewhere, while also helping to fund the general fund budget of the State of Kansas. Stated that it has been a great investment for our companies and our citizens and REAP urges support for affordable air fares for Kansas and for keeping the State competitive in the air service game. Competition in air travel will not go away but if Kansas does not have affordable air fares, our neighbors namely Missouri and Oklahoma, will reap the financial benefits. The cooperative spirit and attitude along with the realization that the communities in South Central Kansas and the entire State are dependent on each other for success is what is really important. Encouraged the City Council to adopt this resolution and embrace this cooperative spirit to help enhance this vital economic development opportunity and send a unified message of support from the REAP region.

Mayor Mayans

Mayor Mayans inquired whether anyone wished to be heard and no one appeared.

Motion--  
--carried

Mayans moved that the Resolution of Support for the Kansas Air Service Development Program be adopted. Motion carried 7 to 0.

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## RESOLUTION NO. 06-050

A Resolution of the governing body of the City of Wichita, Kansas, supporting Affordable Air Service in Kansas and the accompanying request to Governor Kathleen Sebelius and the Kansas Legislature to create a Kansas Air Service Development Program to protect our affordable air fares and build our Kansas air service infrastructure. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Martz, Schlapp, Skelton, and Mayans.

### **DRAINAGE OUTFALL DOUGLAS STREET DRAINAGE OUTFALL. (DISTRICTS I AND VI)**

Jim Armour

City Engineer reviewed the item.

(Council Member Skelton momentarily absent)

Agenda Report No. 06-0125

The 2005-2014 Capital Improvement Program adopted by the City Council includes a project to improve the drainage in Old Town and the surrounding area. On December 5, 2005, District VI approved the Douglas Route, 9-0. On January 9, 2006, District I approved the Douglas Route, 10-0.

The existing Old Town drainage system was constructed in the 1920's and has long experienced flooding in many locations following high intensity rain events. The 1st and 2nd Street railroad underpasses have frequently caused motorists to stall out in more than two feet of water. In 1997, it was recognized that a new Stormwater system would be required to significantly increase the drainage capability in Old Town. The City's design consultant has presented staff with five drainage alternatives to better serve this region. The City Engineer's Office has identified Douglas as the most probable route because it is the most hydraulically efficient and with the least number of utility conflicts. Staff recommends the Douglas route because the existing right-of-way is wider and will allow a larger drainage system to be constructed, has the least number of utility line crossings, and there is no active drainage system in Douglas. The 1st Street route does have an active system that could continue to serve the area.

The improvements will provide a new storm sewer main that will provide the necessary capacity for future Stormwater improvements in the Old Town area. In addition, the storm water main will intercept a large portion of the drainage north of Douglas and reduce the load on the existing systems in Lewis and Waterman. The project will require the pavement to be replaced over the entire route.

The estimated cost of construction is \$6,200,000. The funding source is through the Stormwater Utility.

(Council Member Schlapp momentarily absent)

Mayor Mayans

Mayor Mayans inquired whether anyone wished to be heard and no one appeared.

Motion--carried

Brewer moved that the Douglas route for final design be approved. Motion carried 7 to 0.

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## PETITION

### **PETITION TO CONSTRUCT A SANITARY SEWER TO SERVE AN AREA GENERALLY BOUNDED BY ARKANSAS AVENUE, THE WICHITA VALLEY CENTER FLOOD CONTROL DITCH AND NORTH OF 43RD STREET NORTH. (DISTRICT VI)**

Jim Armour

City Engineer reviewed the item.

Agenda Report No. 06-0127

The signatures on the Petition represent 80 of 135 (59.3%) resident owners and 58.7% of the improvement district area. District VI Advisory Board sponsored a January 9, 2006, neighborhood hearing on the project. The Board voted 10-0 to recommend approval of the project.

The project will construct a lateral sanitary sewer system for a partially developed, predominately residential area that is currently served by private septic tank systems. The project will be coordinated with a sanitary sewer main project for the area, which is under design and scheduled for letting later this year. A supplemental design agreement with Ruggles & Bohm, design engineers for the sewer main project, has been prepared.

The estimated project cost is \$730,000 with the total assessed to the improvement district. The method of assessment is the square foot basis. The estimated assessment to individual properties is \$00.325 per square foot of ownership. The design fee for the supplemental agreement with Ruggles & Bohm is \$39,000.

State Statutes provide that a Petition is valid if signed by a majority of resident property owners or owners of the majority of property in the improvement district. The supplemental design agreement has been approved by the Department of Law.

Mayor Mayans

Mayor Mayans inquired whether anyone wished to be heard and no one appeared.

Motion--  
--carried

Fearey moved that the Petition be approved; the Resolution adopted; the supplemental design agreement approved and the necessary signatures authorized. Motion carried 7 to 0.

### RESOLUTION NO. 06-051

Resolution of findings of advisability and Resolution authorizing construction of Lateral 1, Main 16, Sanitary Sewer No. 23 (along Arkansas Avenue, north of I-235 Freeway) 468-84149, in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Fearey moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Martz, Schlapp, Skelton, and Mayans.

## **MCARTHUR IMPROV. MACARTHUR IMPROVEMENT, BETWEEN MERIDIAN AND SENECA. (DISTRICT IV)**

Jim Armour

City Engineer reviewed the item.

Agenda Report No. 06-0128

The 2005-2014 Capital Improvement Program adopted by the City Council includes a project to improve MacArthur, between Meridian and Seneca. On May 4, 2004, the City Council approved a design agreement with Baughman Company for the preparation of construction plans. The design concept at that time envisioned a four lane roadway with left turn lanes in the west half mile of the project and a four lane roadway without left turn lanes (due to right-of-way constraints) in the east half mile. Since that time, it has been determined that a four lane roadway with left turn lanes can be built through the entire length of the project. District IV Advisory Board sponsored a September 7, 2005, neighborhood hearing on the project. The Board voted 9-0 to recommend approval of the project. A Supplemental Design Agreement with Baughman Company has been prepared for the additional work.

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The project will reconstruct MacArthur to provide four through lanes with left turn lanes and landscaped medians. The intersection of MacArthur and Meridian will be signalized with left turn lanes at all four approaches to the intersection. A new storm water sewer system will be built. Construction is planned for 2007.

The estimated project cost is \$3,600,000 with \$1,200,000 paid by the City and \$2,400,000 by Federal Grants administered by the Kansas Department of Transportation. The funding source for the City share is General Obligation Bonds. The supplemental design fee is \$14,400.

The Law Department has approved the authorizing Ordinance and Supplemental Design Agreement as to legal form.

- Mayor Mayans Mayor Mayans inquired whether anyone wished to be heard.
- Jonathan Wing Mr. Wing stated that he resides at 1612 West MacArthur and that about a year and a half ago they redid MacArthur and asked why they are doing it again.
- Jim Armour City Engineer explained that our maintenance forces had done some repair work on MacArthur and it is a two-lane asphalt mat road and it was in need of some repairs and could not wait. This project is scheduled to make four-lane improvements in 2007 with curb and gutter.
- Council Member Gray Council Member Gray stated that they had only done maintenance work on it and now they are going to reconstruct the road so it meets the City's standards and can meet the capacity of the people that drive down that road.
- Jonathan Wing Mr. Wing stated that he is concerned with how far they are going to come onto his property and it is a brand new road and it is a waste a money to tear it up and build another one.
- Council Member Gray Council Member Gray stated that for the record he could understand the individual's frustration that he spoke of but it does not negate the need that that road has for being a four-lane road and the intersections need to be improved. Stated this needs to be done.
- Motion-- Gray moved that the project be approved; the Ordinance placed on first reading; the Supplemental Design Agreement approved and authorizes the signing of State/Federal agreements as required.
- carried Motion carried 7 to 0.

## ORDINANCE

An Ordinance declaring MacArthur between Meridian and Seneca (472-84358) to be a main trafficway within the City of Wichita, Kansas; declaring the necessity of and authorizing certain improvements to said main trafficway; and setting forth the nature of said improvements, the estimated costs thereof, and the manner of payment of same, introduced and under the plans laid over.

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## RESOLUTION

### RESOLUTION OF SUPPORT FOR STATE LEGISLATURE REGULATING PROTESTS AT FUNERALS.

A RESOLUTUION OF THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, OF SUPPORT OF THE STATE LEGISLATURE REGULATING PROTESTS AT FUNERALS.

WHEREAS, a funeral is usually the last opportunity for an entire community to demonstrate their respect and admiration for the deceased and his or her family; and

WHEREAS, this opportunity for respect is also been seen by some to be an opportunity to vocalize their contempt for certain circumstances regarding the way the deceased may have lived or dies, or which may or may not have anything to do with the deceased; and

WHEREAS, this nation, this state and this city have and will continue to have the utmost respect for the freedom of speech, which is guaranteed by the Constitution, embraced by all of our citizens, and admired by the world; and

WHEREAS, it is the opinion of the Wichita City Council that ample opportunity for free speech can be granted in many ways, without involving the immediate area of a funeral or memorial service for the recently departed.

NOW THEREFORE, BE IT RESOLVED, by the City Council of the city of Wichita, Kansas that: The Wichita City Council strongly urges the Kansas State Legislature and the members of the Sedgwick County Legislative Delegation to support and enact legislation to protect the grieving families of the deceased from unwarranted harassment as well as to preserve the peace of the community by creating buffer zones during funerals and memorial services.

George Kolb

City Manager stated that there is currently a bill in the legislature contemplating increasing the distance that protests can be held to 300 feet from any proposed sites, which are funerals. There have been many of the Council Members who have been sympathetic to this bill and asked that staff prepare a resolution to let the legislatures know their feelings on this. Asked that the Council adopt the resolution and staff will forward it to the appropriate legislative leaders under their signature.

Motion--carried

Mayans moved to adopt the Resolution and authorize the necessary signatures. Motion carried 7 to 0.

#### RESOLUTION NO. 06-052

A Resolution of the governing body of the city of Wichita, Kansas, of support of the State Legislature regulating protests at funerals. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Martz, Schlapp, Skelton, and Mayans.

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## PLANNING AGENDA

Motion--  
--carried

Mayans moved that the Planning Consent items 30-37 be approved in accordance with the recommended action shown thereon. Motion carried 7 to 0.

(Item 29)  
DR2005-00035

### **DR2005-00035-PROPOSED CORRIDOR PRESERVATION PLAN OVERLAY DISTRICT (CP-O) FOR THE PROPOSED NORTHWEST BYPASS IN WICHITA AND SEDGWICK COUNTY. THE GENERAL LOCATION OF THE PROPOSED CP-O CONNECTS K-96 TO US-54 WEST OF THE CITY OF WICHITA.**

John Schlegel

Planning Director reviewed the item.

Agenda Report No. 06-0129

MAPC Recommendations: Approve subject to staff recommendations, vote 10-0.

MAPD Staff Recommendations: To approve the proposed Corridor Preservation Plan Overlay District text amendment to the Unified Zoning Code, and approve an amendment to the Official Zoning Map, placing the proposed Corridor Preservation Plan Overlay District on the designated Northwest Bypass Corridor.

DAB Recommendations: Not applicable.

The proposed Northwest Bypass has existed on adopted planning maps and documents for over five years, staff is working with KDOT and other departments to make progress on this transportation project. KDOT anticipates limited funding for this project; therefore, the proposed Overlay District is intended to assist in the land assembly process. The Planning Department, along with the City and County Attorneys Offices, has drafted the Overlay District. The proposed Overlay District would be an amendment to the text of the Unified Zoning Code, as well as an amendment to the Official Zoning Map, placing the proposed Overlay District on the designated Northwest Bypass Corridor. The Overlay District is proposed to extend 150 feet to each side of the proposed Northwest Bypass centerline. In accordance with the Unified Zoning Code, a public hearing was scheduled for the December 8, 2005 MAPC hearing, and advertised in the official paper.

The Corridor Preservation Plan Overlay District text is self-explanatory. It is intended to ensure that public services are effectively planned and efficiently installed prior to more intensive development. The Overlay intends to ensure that public improvements and investments are considered prior to land use and development decisions. The Overlay would require the existing Conditional Use process for certain building and expansion projects, with final decisions resting at the governing bodies. An administrative approval process is available for smaller scale projects. The proposed Overlay District would apply to the City of Wichita and Sedgwick County only; small cities will not be a part of the Overlay District.

The Metropolitan Area Planning Commission (MAPC) Advance Plans Committee heard this item at their regular committee meeting on December 8, 2005. The committee wished to ensure that the overlay district can be shifted or eliminated when no longer needed, planning staff confirmed that these actions can take place through the normal MAPC and Governing Body processes of amending the official zoning map. The committee also expressed a desire to include the Cities of Maize and Goddard in the overlay process. Staff proposed that the overlay be edited to give administrative authority to the zoning administrators of the city and county, as opposed to the planning director, for improved customer service. The committee agreed with this recommendation. The committee wishes to have the title of the overlay district amended to read "Corridor Preservation Plan Overlay District".

The MAPC heard this item at the scheduled public hearing on December 8, 2005. No members of the public spoke on this item. The MAPC voted 10-0 to approve the item subject to staff recommendations.

The resolution has been reviewed and approved as to form by the Law Department.

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John Schlegel

Planning Director stated that some time ago several meetings were held with officials from the State Department of Transportation, which included the secretary of the department, Deb Miller and one of the items that the department officials were urging of all of the local governments is that we make efforts to try to preserve this corridor for this highway project. Stated what they initially requested was that the local governments place a moratorium on all development within that corridor but after careful review, by staff including the legal departments of both the City of Wichita and Sedgwick County, they have concluded that a moratorium was not a legal option and was not the best course of action. Stated in studying the issue, they found that a zoning tool that they often use, which is the overlay district, would be a good option for the local governments to use to try to preserve this highway corridor. Stated that they have drafted a reasonable regulation of land use within this proposed highway corridor that they think balances the rights of property owners within that proposed overlay district with the public need for preserving the highway corridor. Stated this proposed overlay district is being proposed to the Council today. Stated that the overlay district requires that any change in use of property within this overlay district, which is defined as 150 feet on either side of the preliminary center line that KDOT has created for the bypass, would require that any change in use of property undertake a review by the Planning Commission and by respective governing body, the jurisdiction that property lies within. The overlay district would alert property owners to the fact that their property does lie within the proposed corridor for the bypass and would allow them to make investment decisions more wisely based on that knowledge and gives the local jurisdiction the opportunity to work with those property owners if they are proposing to build something or change the zoning or plat on property within the proposed right-of-way to work with them and make sure that nothing gets built where the highway will go. Stated that if we are not able to work things out with the property owners or if they are so adversely impacted, it gives us the opportunity to move forward with negotiating a purchase of the right-of-way. Stated that this proposed overlay district has been reviewed by the Metropolitan Area Planning Commission and after making some minor revisions to the original proposal, they reviewed it on December 8, 2005 and there was no one there at that meeting to speak on the item and they have voted unanimously to recommend its approval. Stated that there is a meeting scheduled with the State Department of Transportation for next Monday at which time they will give us an update on the status of the bypass. Stated that because of this meeting, the Council may want to consider deferring any action at this time until after we find out more from KDOT on Monday, where things stand with the highway project.

Motion--carried

Martz moved to defer action on this until after the meeting. Motion carried 7 to 0.

SUB2005-51

## **SUB2005-51-PLAT OF BLUE SKY ADDITION, LOCATED NORTH OF MAPLE AND WEST OF WEST STREET. (DISTRICT IV)**

Agenda Report No. 06-0130

Staff Recommendation: Approve the plat.

MAPC Recommendation: Approve the plat. (11-0)

This site, consisting of seven lots on 1.92 acres, is located within Wichita's city limits. This site is zoned SF-5, Single-family Residential District.

Petitions, 81.4 percent (approved by the City Council on January 10, 2006), and a Certificate of Petitions have been submitted for water and paving improvements. Sanitary sewer services are available to serve the site. A Restrictive Covenant was submitted to allow the creation of a Lot Owner's Association to provide for the ownership and maintenance of the reserves being platted for drainage purposes.

This plat has been reviewed and approved by the Planning Commission, subject to conditions and recording within 30 days.

The Certificate of Petition and Restrictive Covenant will be recorded with the Register of Deeds.

Motion--  
--carried

Mayans moved that the documents and plat be approved and the necessary signatures authorized Motion carried 7 to 0.



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DED2006-01 & 02

**DED2006-01 AND DED2006-02-DEDICATION OF DRAINAGE AND UTILITY EASEMENTS, LOCATED WEST OF RIDGE ROAD AND NORTH OF 37TH STREET NORTH. (DISTRICT V)**

Agenda Report 06-0131

Staff Recommendation: Accept the Dedications.

MAPC Recommendation: Accept the Dedications. (12-0)

The Dedications are associated with a lot split case (SUB 2005-135). The Dedications are for construction and maintenance of drainage systems and public utilities.

The Dedications have been reviewed and approved by the Planning Commission.

The Dedications will be recorded with the Register of Deeds.

Motion--carried

Mayans moved that the Dedications be accepted. Motion carried 7 to 0.

DED2006-03

**DED2006-03-DEDICATION OF A UTILITY EASEMENT, LOCATED SOUTH OF CENTRAL AND EAST OF HOOVER ROAD. (DISTRICT IV)**

Agenda Report No. 06-0132

Staff Recommendation: Accept the Dedication.

MAPC Recommendation: Accept the Dedication. (12-0)

This Dedication is associated with a lot split case (SUB 2005-152). The Dedication is for construction and maintenance of public utilities

The Dedication has been reviewed and approved by the Planning Commission.

The Dedication will be recorded with the Register of Deeds.

Motion--carried

Mayans moved that the Dedication be accepted. Motion carried 7 to 0.

VAC2000-00043

**VAC2000-00043-REQUEST TO VACATE A PLATTED DRAINAGE DEDICATION, GENERALLY LOCATED SOUTHWEST OF THE KELLOGG AVENUE AND KANSAS TURNPIKE INTERCHANGE. (DISTRICT II)**

Agenda Report No. No. 06-0133

Staff Recommendation: Approve.

MAPC Recommendation: Approve (Unanimously).

The applicant is requesting consideration to vacate the platted 80-foot drainage dedication, as recorded on East Turnpike Entrance 2nd Addition. The applicant owns the abutting northern and southern properties. There are no utilities, water or sewer lines or manholes in the drainage dedication. The applicant has constructed an underground storm water drainage system, per city standards, that replaces the surface drainage that the 80-foot easement allowed. The East Turnpike Entrance 2nd Addition was recorded with the Register of Deeds on January 20, 1975.

The MAPC voted (9-0) to approve the vacation request. No one spoke in opposition to this request at the MAPC's advertised public hearing or its Subdivision Committee meeting. No written protests have been filed.

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A certified copy of the Vacation Order, a drainage easement and a temporary easement, dedicated by separate instruments, will be recorded with the Register of Deeds.

Motion--  
--carried

Mayans moved that the Vacation Order be approved and the necessary signatures authorized.  
Motion carried 7 to 0.

**ZON2005-00044**

**ZON2005-00044-ZONE CHANGE FROM “TF-3” TWO-FAMILY RESIDENTIAL, “MF-29” MULTI-FAMILY RESIDENTIAL AND “GO” GENERAL OFFICE TO “NR” NEIGHBORHOOD RETAIL, WITH A PROTECTIVE OVERLAY. GENERALLY LOCATED BETWEEN HILLSIDE AVENUE AND LORRAINE STREET, MIDWAY BETWEEN 2ND AND 3RD STREETS. (DISTRICT I)**

Agenda Report No. 06-0134

MAPC Recommendations: Approve, subject to provisions of Protective Overlay District #164 (10-0).  
MAPD Staff Recommendations: Approve, subject to Protective Overlay District #164.  
DAB Recommendations: Not applicable.

The applicant requests a zone change from “TF-3” Duplex Residential, “MF-29” Multi-family Residential, and “GO” General Office to “NR” Neighborhood Retail on the platted, undeveloped site. The site is located between Hillside Avenue and Lorraine Street, midway between 2nd and 3rd Streets. This is the last undeveloped site on Hillside, between Douglas Avenue and Central Avenue. With the proposed zoning, the site’s lots will have Hillside frontage and extend west to Lorraine Avenue. The applicant proposes development of the property for neighborhood retail uses.

Development east of the site, across Hillside Avenue, include small medical and dental offices zoned “GO”, and a vacant single-family residence zoned “MF-29”. South of the site is another medical office zoned “GO”, and a parking lot zoned “TF-3”. Properties west of the site, across Lorraine Street, include single-family residences zoned “TF-3”. North of the site, along its Hillside frontage is a medical office zoned “GO”. Also north of the site, where it extends to Lorraine Avenue, is an apartment building zoned “B”. Hillside Avenue, between Douglas Avenue and Central Avenue, is mostly stripped out and developed with medical and dental offices, a vet office, both drive through and sit down restaurants, retail, a bank, personal services, an older fire station and a few small apartments. The Wesley Hospital complex is located a block and a half northeast of the subject site, at Hillside Avenue and Central Avenue, and is the largest employer in the area.

The site has access to Hillside Avenue and Lorraine Avenue. Hillside is a five-lane arterial along the east side of the site. Lorraine is a paved residential street (on a portion of the site’s west side) that intersects with 2nd Street on its south end and dead ends at a drainage channel on its north end. 2nd Street is a one-way street going west at this location. The site also has access onto Lorraine from a partially paved, platted alley. Water, sewer and all other utilities are available. Any development on the subject property will be required to meet access management regulations, compatibility setback standards, landscaping and any other applicable codes and development standards.

Comparing the uses allowed in “NR” zoning to the suggested types of uses sited in the Wichita Land Use Guide, the “NR” uses closely match the Guide’s suggested “commercial, office, and personal services that do not have a significant regional draw”. The uses allowed in “NR” zoning that are not allowed in the “GO” zoning district are restaurants, 2,000-square feet or less in size, without drive through or curbside service and general retail uses. General retail uses do not include drive through or curbside service restaurants, convenience stores, vehicle repair limited or general, hotels/motels, service stations, car washes, night clubs, drinking establishments, taverns or pawn shops; none of these uses are permitted in the “NR” zoning district as well.

The Metropolitan Area Planning Commission, at their October 20, 2005 meeting, recommended approval (10-0) of the requested “NR” zoning with the provisions of Protective Overlay (PO) #164. No one spoke in opposition to the zoning change at the MAPC meeting, and no phone calls were received protesting the proposed zone change. The provisions of PO #164 are:

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1. On site pole lights shall be no higher than 14-foot. They shall be hooded and directed onto the site and away from the residential developments and zoning west, north and south of the site. No pole lights shall be located within the required compatibility setbacks along the west, south and north sides of the property.
2. Solid screening with a landscape buffer will be provided along the west side of the site where it has frontage along Lorraine Avenue and where "TF-3" Duplex Residential zoning is west of the site and along its south and north sides where it abuts "TF-3" and "B" Multi-family Residential zoning. Solid screening will also be provided along the site's Hillside frontage's west side where it is adjacent to "B" zoning.
3. Permitted uses on lots fronting Lorraine Avenue (Lots 56, 58, 60 & 62, the Maple Grove Addition: these are the lots currently zoned "TF-3") are parking for the rest of the "NR" site and all residential uses permitted in the "NR" zoning district.
4. Dedication of complete access control onto Lorraine Avenue.
5. A restrictive covenant binding and tying the properties together.
6. Contingent dedication of 10-feet of right-of-way along the site's Hillside frontage.
7. Conformance to the current access management regulations.
8. Provide a guarantee for the paving of that portion of the alley that abuts the site

A dedication, by separate instrument, of complete access control onto Lorraine Avenue, a restrictive covenant, a contingent dedication of 10-feet of right-of-way along the site's Hillside frontage, and a petition insuring that alley pavement improvements will implemented, will be recorded with the Register of Deeds.

Motion--

Mayans moved to concur with the findings of the MAPC and approve the zone change, subject to the additional recommended provisions of the Protective Overlay District and place the ordinance on first reading. Motion carried 7 to 0.

--carried

## ORDINANCE

An Ordinance changing the zoning classifications or districts of certain lands located in the City of Wichita, Kansas, under the authority granted by the Wichita-Sedgwick County Unified Zoning Code, Section V-C, as adopted by City of Wichita Code Section 28.04.21 (ZON2005-00044)

CUP2005-63

**CUP2005-63-ASSOCIATED WITH (ZON2005-49)-CREATION OF DP-291 CEDAR CREEK MARKETPLACE COMMUNITY UNIT PLAN; AND ZONE CHANGE FROM SINGLE-FAMILY RESIDENTIAL TO LIMITED COMMERCIAL. GENERALLY LOCATED EAST OF GREENWICH ROAD AND SOUTH OF K-96. (DISTRICT II)**

Agenda Report No. 06-0135

MAPC Recommendations: Approve, subject to conditions, vote (11-0).

MAPD Staff Recommendations: Approve, subject to conditions.

DAB Recommendations: Not applicable.

The applicant proposes to create a commercial Community Unit Plan containing approximately 33.5 acres east of Greenwich Road and south of K-96 and rezone the property from "SF-5" Single-family Residential to "LC" Limited Commercial.

The CUP drawing shows three parcels. Parcel 1, a pad site (1.85 acres), is located along Greenwich and requests proposed uses of bank or financial institution; ATM; office; restaurant; retail and utility, minor. Parcel 2, the largest parcel (»19 acres) occupies the mid-section of the property and includes frontage on Greenwich and K-96. It also connects to the pond on the southeast corner of the CUP. Proposed uses added for Parcel 2 includes personal care service, personal improvement service, marine facility, recreational; printing and copying (limited) and recreation and entertainment (indoor). Parcel 3 (» 12 acres) requests the same uses as Parcel 1 but adds marine facility, recreational. The developer may capitalize on the pond in southeast corner of the parcel as an amenity, particularly for restaurants. Uses allowed in the "LC" district by Conditional Use are prohibited.

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Ground signage on Greenwich would be monument type signs with a maximum height of 20 feet except for one site identification pole or monument sign with a maximum height of 30 feet. Along K-96, two ground signs, including one site identification pole or monument sign with a maximum height of 30 feet and a second sign that would be per code or up to 20 feet above the height of the adjoining freeway, are requested; building wall signage in accordance with the Wichita Sign Code would provide other signage. Window displays would be limited to 25% of window area. Moving signs except time and temp or public service message are prohibited.

Maximum building coverage would be 30% (437,909 square feet) and maximum gross floor area would be 35% (510,893 square feet). Maximum building height would be 40 feet. Perimeter setbacks are 35 feet. Buildings would have uniform architectural compatibility of character, color, texture and materials, and contain predominately earth-tone colors. The agent has indicated predominately metal facades would not be allowed. Also, the agent indicated that the buildings would be developed as double frontage buildings with street side facades along K-96 rather than placing typical rear building activities along K-96. Parking lots would have similar or consistent lighting elements.

A solid screening wall (6-8 feet in height) would be as required by Unified Zoning Code for CUPs except along the pond. A landscape buffer would be provided along the edge instead.

The site is part of Kensington Gardens, a 75-acre cemetery development zoned "LC" (7 acres) for the funeral home and "SF-5" (68 acres) for the cemetery itself. The southern half of the cemetery would remain south of the proposed CUP. K-96 borders the proposed CUP on the east and north; a bike path is located within the K-96 right-of-way. The area north of K-96 is zoned "SF-20" Single-family Residential, but is approved for "LI" Limited Industrial subject to platting. The property southeast of K-96 is a large church.

A single-family residence zoned "SF-5" abuts the site to the southwest and an 18-acre commercial property zoned "LC" (The Manhattan Addition that is subject to a Restrictive Covenant similar to CUP development requirements) occupies the rest of the property on the northeast corner of Greenwich and 21st Street North. Other than a bank, this property is vacant. DP-234 Regency Lakes CUP (63 acres zoned "LC" and "LI") occupies the property from the northwest corner of Greenwich and 21st Street North to K-96 and is located across Greenwich from the proposed CUP. It is partially developed with a SuperTarget, a mid-sized retail use, a restaurant under construction; several out parcels and larger parcels are vacant. DP-266, The Woodlands CUP (116 acres approved for "LC" but with 52 acres for commercial and office use), a.k.a. Oak Creek, is located on the southwest corner of Greenwich and 21st and is vacant. DP-279 Slawson East Commercial CUP (60 acres approved for "LC"), a.k.a. Crosspointe, is located on the southeast corner and is vacant. DP-277 Bruce Brown Property CUP (69 acres approved for "LC") is located south of DP-279 and also is vacant. Total amount of property approved for commercial use in this area is approximately 270 acres.

At the MAPC meeting held December 22, 2006, no citizens spoke on the case. The agent for the applicant discussed that they wished to have a second ground sign on K-96, which would be per Sign Code or up to 20 feet in height above the height of the roadway surface. The increasing height to 20 feet above the roadway surface is allowable by administrative adjustment in the Wichita Sign Code, and the action of the MAPC and Wichita City Council to approve a sign meeting these requirements would constitute granting this increased height.

Recommended conditions from MAPC are as follows:

- A. APPROVE the zone change (ZON2005-49) to "LC" Limited Commercial subject to platting of the entire property within one year;
- B. APPROVE the Community Unit Plan (DP-291), subject to the following conditions:

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1. The applicant shall guarantee a center left-turn lane at the entrance on Greenwich Road at time of platting.
2. The applicant shall guarantee proportionate share of traffic signalization for the entrance at the time of platting.
3. Add to General Provision 6: All signs shall be spaced a minimum of 150 feet apart on Greenwich Road.
4. Add to General Provision 7: Building elevations facing K-96 shall have facades designed as street facades with elements such as but not limited to windows, doors, parking for customers, and building materials similar to the front facades. No predominately metal facades shall be permitted. Service areas including but not limited to loading docks, outdoor work and storage areas, trash receptacles, and mechanical equipment shall not be located on K-96 or shall be screened from ground level view and view of passing traffic.
5. Clarify in General Provision 17 that plantings in a landscape buffer may be located within 75 feet of the water surface of the body of water.
6. Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.
7. The transfer of title of all or any portion of the land included within the Community Unit Plan does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land for commercial development and be binding upon the present owners, their successors and assigns, unless amended.
8. All property included within this CUP and zone case shall be platted within one year after approval of this CUP by the Governing Body, or the cases shall be considered denied and closed. The resolution establishing the zone change shall not be published until the plat has been recorded with the Register of Deeds.
9. Prior to publishing the resolution establishing the zone change, the applicant(s) shall record a document with the Register of Deeds indicating that this tract (referenced as DP-291) includes special conditions for development on this property.
10. The applicant shall submit 4 revised copies of the CUP to the Metropolitan Area Planning Department within 60 days after approval of this case by the Governing Body, or the request shall be considered denied and closed.
11. Change sentence #4 of General Provision 6 to read: "Signage height shall not exceed 20', except for one site identification sign along K-96 and one site identification sign along Greenwich that can be either monument or pole type, up to 30' in height, and one freestanding sign on K-96 with a maximum height (top of sign) of 30' or not to exceed 20 feet above the height of the top of the highest railing or barrier along the traffic deck or decks within the right-of-way at a point perpendicular to the sign or 30', whichever is higher. The maximum sq. ft. of sign area permitted for ground or pole signs along Greenwich shall be calculated at 0.8 sq. ft. per lineal feet of street frontage and shall be limited to two signs allowed on K-96 with a maximum size of 300 square feet each.

The ordinance has been reviewed and approved as to form by the Law Department.

Motion--

Mayans moved to adopt the findings of the MAPC and approve the zone change and CUP subject to the condition of platting within one year and the recommended conditions; instruct the Planning Department to forward the ordinance for zone change for first reading when the plat has been recorded with the Register of Deeds. Motion carried 7 to 0.

--carried

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A06-03R

**A06-03R-REQUEST BY PAUL KELSEY, OF KELSEY DEVELOPMENT INCORPORATED,  
TO ANNEX LAND GENERALLY LOCATED TO THE NORTHEAST OF THE  
INTERSECTION OF 13TH STREET AND 151ST STREET. (DISTRICT V)**

Agenda Report No. 06-0136

The City has received a request to annex 62.08 acres of land generally located to the northeast of the intersection of 13th Street and 151st Street. The annexation area abuts the City of Wichita to the east. The property owner anticipates that the proposed property will be developed with approximately 119 single-family residential units.

**Land Use and Zoning:** The proposed annexation consists of approximately 62.08 acres of property currently zoned "SF-20" Single-Family Residential, which upon annexation will convert to "SF-5" Single-Family Residential. Property to the north, south and west of the subject property is zoned "SF-20" Single-Family Residential. Property to the east is zoned "SF-5" Single-Family Residential.

**Public Services:** The nearest water line is a 16" line in 13th Street coming from the east and ending at the east line of this area. This line will be extended as part of the platting process. This area is also waiting for a 24" sewer main to be constructed in 135th West from 21st North.

**Street System:** The subject property borders 13th Street to the south, which is a dirt road. No improvements are scheduled for the road segment bordering the proposed annexation property, but road improvements are scheduled for segments of 135th Street and 13th Street just 1/2 mile to the east of the subject property.

Since the City of Wichita recently reconstructed the bridge over the Cowskin Creek, 13th Street must be elevated and repaved. In order to address this issue, the Sedgwick County Capital Improvement Program 2006-2010, the 2006 Transportation Improvement Program and the City of Wichita Capital Improvement Program (CIP) 2005-2014 have scheduled road improvements for 13th Street, east of the proposed annexation property, between 119th Street and 135th Street. In addition, the 2006 Transportation Improvement Program and the City of Wichita Capital Improvement Program (CIP) 2005-2014 have also scheduled 135th Street to be reconstructed and widened from 21st Street to Maple Street.

**Public Safety:** Fire services to this site can be provided by the City of Wichita within a nine (9) to ten (10) minute approximate response time from City Station No. 16, located at 1632 N. Tyler. Upon annexation, police protection will be provided to the area by the Patrol West Bureau of the Wichita Police Department, headquartered at 661 N. Elder.

**Parks:** West Meadows Park, a 1.5-acre park, is located approximately 2 miles to the east of the proposed annexation site and contains a children's play area, a basketball court and a tennis court. Swanson Park, a 93-acre park, is located approximately 3 miles from the proposed annexation site and contains a nature trail and parking area. Buffalo Park, a 38-acre park, is approximately 4 miles from the proposed site and contains 3 softball diamonds, 2 tennis courts, a children's play area, a basketball court and a fishing pond. According to the 1996 Parks and Open Space Master Plan, a pathway has been proposed that would run along the west border of the subject property along the creek.

**School District:** The annexation property is part of the Unified School District 266 (Maize School District). Annexation will not change the school district.

**Comprehensive Plan:** The proposed annexation is consistent with the Wichita-Sedgwick County Comprehensive Plan. The annexation property falls within the 2030 Wichita Urban Growth Area as shown in the Plan.

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The current estimated appraised value of the proposed annexation lands is \$15,085 with a total assessed value of \$4,453. Using the current City levy (\$31.828/\$1000 x assessed valuation), this roughly yields \$122 in City annual tax revenues for the property. The future assessed value of this property will depend on the type and timing of any other developments on the proposed annexation property and the current mill levy. At this time, the property owner is anticipating that approximately 119 single-family units will be developed within the next four years. The total appraised value of the development after completion is estimated at \$20,230,000. Assuming the current City levy remains about the same, this would roughly yield a total of \$73,064 in City annual tax revenues.

The property is eligible for annexation under K.S.A. 12-519, et seq.

Motion--  
--carried

Mayans moved that the annexation request be approved and the Ordinance placed on first reading.  
Motion carried 7 to 0.

## ORDINANCE

An Ordinance including and incorporating certain blocks, parcels, pieces and tracts of land within the limits and boundaries of the City of Wichita, Kansas, introduced and under the plans laid over.  
(A06-03R)

**A06-04R**

**A06-04R-REQUEST BY PAUL KELSEY, OF KELSEY INVESTMENTS, INC. TO ANNEX LAND GENERALLY LOCATED WEST OF 135TH STREET, BETWEEN 21ST STREET AND 13TH STREET. (DISTRICT V)**

Agenda Report No. 06-0137

The City has received a request to annex 106.3 acres of land generally located west of 135th Street, between 21st Street and 13th Street. The annexation area abuts the City of Wichita to the south. The property owner anticipates that the proposed property will be developed with approximately 244 single-family residential units.

Land Use and Zoning: The proposed annexation consists of approximately 106.3 acres of property currently zoned "SF-20" Single-Family Residential, which upon annexation will convert to "SF-5" Single-Family Residential. Property to the north, east and west of the subject property is zoned "SF-20" Single-Family Residential, while property to the south is zoned "SF-5" Single-Family Residential.

Public Services: The nearest water line is an 8" water line located within the subdivision to the south of the proposed property. This area is also waiting for a 24" sewer main to be constructed along 135th Street from 21st Street.

Street System: The subject property borders 135th Street to the east, which is a paved, two-lane road. The 2006 Transportation Improvement Program and the City of Wichita Capital Improvement Program (CIP) 2005-2014 have scheduled 135th Street to be reconstructed and widened, to the east of the subject property, from 21st Street to Maple Street. In addition, since the City of Wichita recently reconstructed the bridge over the Cowskin Creek, 13th Street must be elevated and repaved. The Sedgwick County Capital Improvement Program 2006-2010, the 2006 Transportation Improvement Program and the City of Wichita Capital Improvement Program (CIP) 2005-2014 have scheduled road improvements for 13th Street, south of the proposed annexation property, between 119th Street and 135th Street.

Public Safety: Fire services to this site can be provided by the City of Wichita within a nine (9) to ten (10) minute approximate response time from City Station No. 16, located at 1632 N. Tyler. Upon annexation, police protection will be provided to the area by the Patrol West Bureau of the Wichita Police Department, headquartered at 661 N. Elder.

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Parks: West Meadows Park, a 1.5-acre park, is located approximately 2 miles to the east of the proposed annexation site and contains a children's play area, a basketball court and a tennis court. Swanson Park, a 93-acre park, is located approximately 3 miles to the southeast from the proposed annexation site and contains a nature trail and parking area. Buffalo Park, a 38-acre park, is approximately 4 miles from the proposed site and contains 3 softball diamonds, 2 tennis courts, a children's play area, a basketball court and a fishing pond. According to the 1996 Parks and Open Space Master Plan, a pathway has been proposed that would run along the east edge of the proposed property along 135th Street.

School District: The annexation property is part of the Unified School Districts 266 and 267 (Maize and Renwick School Districts). Annexation will not change the school district.

Comprehensive Plan: The proposed annexation is consistent with the Wichita-Sedgwick County Comprehensive Plan. The annexation property falls within the 2030 Wichita Urban Growth Area as shown in the Plan.

The current approximate appraised value of the proposed annexation lands, according to County records, is \$21,800 with a total assessed value of \$6,540. Using the current City levy (\$31.828/\$1000 x assessed valuation), this roughly yields \$205 in City annual tax revenues for the property. The future assessed value of this property will depend on the type and timing of any other developments on the proposed annexation property and the current mill levy. At this time, the property owner is anticipating that approximately 244 single-family housing units will be developed within the next five years. The total appraised value of this residential development after completion is estimated at \$20,740,000. Assuming the current City levy remains about the same, this would roughly yield a total of \$74,906 in City annual tax revenues.

The property is eligible for annexation under K.S.A. 12-519, et seq.

Motion--  
--carried

Mayans moved that the annexation request be approved and the Ordinance placed on first reading. Motion carried 7 to 0.

## ORDINANCE

An Ordinance including and incorporating certain blocks, parcels, pieces and tracts of land within the limits and boundaries of the City of Wichita, Kansas, introduced and under the plans laid over. (A06-04R)

## AIRPORT AGENDA

Motion--  
--carried

Mayans moved that the Airport Consent items 38-39a be approved in accordance with the recommended action shown thereon. Motion carried 7 to 0.

## TERMINAL AREA

## TERMINAL AREA REDEVELOPMENT PROGRAM ENVIRONMENTAL ASSESSMENT CONTRACT, WICHITA MID-CONTINENT AIRPORT.

Agenda Report No. 06-0138

On June 7, 2005 the Wichita Airport Authority approved a project budget of \$4.7 million for the first phase of the Terminal Area Redevelopment Program.

In order to comply with Federal Aviation Administration (FAA) requirements, it is necessary to conduct an environmental assessment study. A contract has been negotiated with HNTB, the selected architect for the project, to provide professional services.



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The contract amount of \$104,572 will be funded with FAA grant funds, Airport Passenger Facility Charges, and General Obligation Bonds paid for with airport revenue. A budget increase of \$104,572 is requested. Funds are identified in the Capital Improvement Program.

The Law Department has approved the contract and the Authorizing Resolution as to legal form.

Motion--  
--carried

Mayans moved that the project budget adjustment and the contract be approved; the authorizing resolution adopted and the necessary signatures authorized. Motion carried 7 to 0.

## RESOLUTION A-06-003

A Resolution declaring that a public necessity exists for, and that the public safety, service and welfare will be advanced by, the authorization of certain program management services to be provided in connection with the design and construction of a new terminal for the Wichita Mid-Continent Airport; providing an estimate of the costs of such services; and providing that all or a portion of the costs of such services shall be paid by the issuance of General Obligation Bonds, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Martz, Schlapp, Skelton, and Mayans.

## TAXIWAY "N"

### AIRFIELD PAVEMENT, TAXIWAY "N" CONSTRUCTION, WICHITA MID-CONTINENT AIRPORT.

Agenda Report No. 06-0139

On June 3, 2003, Ritchie Paving, Inc. was awarded the contract for the Taxiway "N" project in the amount of \$7,016,064.70.

A change order has been prepared to adjust final field-measured quantities.

The change order reflects a deduction in the amount of \$33,976.03.

The change order has been approved by the Law Department and will be approved by the FAA.

Motion--  
--carried

Mayans moved that the change order be approved and the necessary signatures authorized. Motion carried 7 to 0.

## DELTA AIRLINES

### CONTRACT FOR OUTSIDE LEGAL SERVICES -- DELTA AIRLINES COMPLAINT WITH FAA RE: AIR TRAN AIRLINES

Agenda Report No. 06-0091A.

This matter was deferred by the Wichita Airport Authority from its meeting agenda of January 24, 2006 to the meeting agenda of February 7, 2006. In December 2004 the City Manager retained the law firm of Palmer & Dodge to represent the interests of the Wichita Airport Authority in connection with a complaint filed with the Federal Aviation Administration by Delta Airlines challenging the relationship between the City of Wichita and AirTran Airlines entered into in May 2004. This agreement was for an initial amount not to exceed \$24,000. The contract was amended by the Wichita Airport Authority on September 13, 2005, to increase authorized payments to \$75,000. The firm has provided representation since that time and the matter remains pending with the FAA. Recently, the firm has completed multiple filings with the FAA to respond to submissions by Delta and has submitted billings for this legal work. There is some additional legal work necessary to fully protect the interests of the Wichita Airport Authority that will exceed the limits of the existing contract as amended. In addition, the firm of Palmer & Dodge has merged with another firm and the new name of the firm is Edwards, Angell, Palmer & Dodge. The attorney who has provided the legal services to date has not changed with the merger.

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In order to continue to represent the Wichita Airport Authority adequately in this matter the maximum amount that can be expended for fees and expenses under the existing contract needs to be increased to \$125,000.

The fees and expenses for the City's defense of this lawsuit will be paid by the Wichita Airport Authority.

The Law Department has approved the amendment to the contract for legal services as to form.

Motion--

Mayans moved to authorize the Mayor to execute the amendment to the contract on behalf of the Wichita Airport Authority increasing the maximum amount of fees and expenses that may be expended under the agreement with Edwards, Angell, Palmer & Dodge to \$125,000. Motion carried 7 to 0.

-- carried

## CITY COUNCIL

### **BOARD APPTS.**

### **BOARD APPOINTMENTS.**

Mayor Mayans

Mayor Mayans stated that he has a request from County Commissioner Dave Unruh to appoint Jay Swanson to the Wichita Airport Advisory Board and that John D'Angelo has requested that Coreen Green be appointed to the Board of Directors for the Mid America All Indian Center.

Motion--carried

Mayans moved that the appointments be made. Motion carried 7 to 0.

### **RECESS**

Motion--

Mayans moved that the City Council recess into Executive Session at 11:00 a.m. to consider: Consultation with legal counsel on matters privileged in the attorney-client relationship relating to: potential litigation and legal advice and that the Council return from Executive Session no earlier than 11:20 a.m. and reconvene in the City Council Chambers on the first floor of City Hall. Motion carried 7 to 0.

--carried

### **RECONVENE**

The Council reconvened in the City Council Chambers at 11:25 a.m.

Motion--

Mayans moved that the Council extend the Executive Session until 11:35 a.m. Motion carried 4 to 0, (Brewer, Martz and Schlapp absent).

--carried

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<b>RECONVENE</b>	The Council reconvened in the City Council Chambers at 11:39 a. m. Mayor Mayans stated that no action was taken
Motion--carried	Mayans moved to adjourn the Executive Session at 11:39 a.m. Motion carried 4 to 0, (Brewer, Gray and Schlapp absent).
Motion--carried	Mayans moved to adjourn the regular meeting at 11:40 a.m. Motion carried 4 to 0, (Brewer, Gray and Schlapp absent)
Adjournment	The City Council meeting adjourned at 11:40 a.m.

Respectfully submitted,

Karen Sublett, CMC  
City Clerk

\*\*\*Workshop followed in the First Floor Board Room\*\*\*